

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD
OF THE
One Hundred And Thirteenth Legislature
OF THE
State Of Maine

VOLUME I
FIRST REGULAR SESSION
December 3, 1986 to May 22, 1987

**ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
70th Legislative Day
Tuesday, May 19, 1987**

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

Prayer by Reverend Bruce W. Meyer, Prince of Peace Lutheran Church, Augusta.

The Journal of Monday, May 18, 1987, was read and approved.

Quorum call was held.

SENATE PAPERS

Unanimous Ought Not To Pass

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide Funds to Encourage the Maine Family Farm" (S.P. 368) (L.D. 1109)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Establish a Comprehensive Service Delivery System for Survivors of Head Injuries" (S.P. 391) (L.D. 1210)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Revise the Allocations for the Alcohol Premium Fund" (S.P. 426) (L.D. 1306)

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

Unanimous Leave to Withdraw

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Bill "An Act to Ensure Consumer Input in Insurance Rate Making" (S.P. 235) (L.D. 629)

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Provide Funding for Drug Task Forces" (S.P. 334) (L.D. 989)

Report of the Committee on Utilities reporting "Leave to Withdraw" on Bill "An Act Relating to the Use of Antibackflow Devices on Public Water Supply Systems" (S.P. 337) (L.D. 992)

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

Ought to Pass in New Draft/New Title

Report of the Committee on Human Resources on Bill "An Act to Require the Department of Human Services to Implement Certain Recommendations Regarding the Recruitment, Training and Staffing Levels for Certified Nursing Assistants" (S.P. 118) (L.D. 313) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Establish a Statewide Training Program for Staff of Long-term Care Facilities" (S.P. 536) (L.D. 1619).

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

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

Divided Report

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Amend the Law Regarding the Violation of Imprudent Speed" (S.P. 362) (L.D. 1097)

Signed:

Senator: CAHILL of Sagadahoc
Representatives: MILLS of Bethel
CALLAHAN of Mechanic Falls
REEVES of Pittston
SOUCY of Kittery
STROUT of Corinth
SALSBUURY of Bar Harbor
MACOMBER of South Portland
McPHERSON of Eliot

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

Signed:

Senators: DOW of Kennebec
THERIAULT of Aroostook
Representatives: MOHOLLAND of Princeton
POULIOT of Lewiston

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

Reports were read.

On motion of Representative Macomber of South Portland, the House accepted the Majority "Ought Not to Pass" Report in non-concurrence and sent up for concurrence.

Non-Concurrent Matter

Bill "An Act Concerning Proof of Insurance on School Buses" (H.P. 863) (L.D. 1164) on which the Minority "Ought to Pass" as Amended Report of the Committee on Transportation was read and accepted and the Bill passed to be engrossed as amended by Committee "A" (H-130) in the House on May 18, 1987.

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

On motion of Representative Clark of Millinocket, the House voted to insist.

COMMUNICATIONS

The following Communication:

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333
May 15, 1987

MEMORANDUM

TO: President Pray, Speaker Martin and
Members of the 113th Legislature
FROM: S/John R. McKernan, Jr., Governor
SUBJECT: Maine Labor Report

Attached is a report entitled, The Maine Labor Force to the Year 2000 and Related Human Resources Issues, prepared by the Maine Department of Labor. The report clearly points out the need in Maine for a coordinated and comprehensive approach in meeting our human resource demands for the 1990's and beyond.

I will be presenting a plan of action that will begin to address the critical human resource issues that are facing the State of Maine. If we want to compete nationally and internationally we must begin now to train, retrain and upgrade our work force.

I am looking forward to working with you during the next four years in making Maine an opportunity state for all its people.

Was read and with accompanying report ordered placed on file.

PETITIONS, BILLS AND RESOLVES

REQUIRING REFERENCE

The following Bills were received and, upon the recommendation of the Committee on Reference of

Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

LATER TODAY ASSIGNED

Bill "An Act to Provide Funds to Local School Administrative Units and to the Department of Educational and Cultural Services to Implement and Meet the Requirements of the Teacher and Administrator Certification Laws" (Emergency) (H.P. 1193) (L.D. 1625) (Presented by Representative SMALL of Bath) (Cosponsors: Senators CLARK of Cumberland, RANDALL of Washington, and Representative BROWN of Gorham)

(The Committee on Reference of Bills had suggested the Committee on Education.)

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

Representative HANDY: Mr. Speaker, is this bill in violation of Joint Rule 24 and is it properly before the body?

The SPEAKER: The Chair would rule that the bill is properly before the body. It is noted on the jacket that it is a Governor's bill.

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

State and Local Government

Bill "An Act to Clarify the Authority for Recruitment and Retention Stipends" (Emergency) (H.P. 1192) (L.D. 1624) (Presented by Representative STROUT of Windham) (Cosponsors: Representatives LACROIX of Oakland, HUSSEY of Milo, and Senator GOULD of Waldo)

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

Representative HANDY: Mr. Speaker, is this bill in violation of Joint Rule 24?

The SPEAKER: The Chair would answer in the negative. It is noted on the jacket that it is a Governor's bill.

Subsequently, was referred to the Committee on State and Local Government, ordered printed, and sent up for concurrence.

State and Local Government

Bill "An Act to Change the Name of the Bureau of Civil Emergency Preparedness to the Maine Emergency Management Agency" (H.P. 1194) (L.D. 1626) (Presented by Representative BICKFORD of Jay) (Cosponsors: Senators BALDACCI of Penobscot, GOULD of Waldo, and Representative STROUT of Windham)

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

Representative HANDY: Mr. Speaker, is this bill in violation of Joint Rule 24?

The SPEAKER: The Chair would answer in the negative. It is noted on the jacket that it is a Governor's bill.

Subsequently, was referred to the Committee on State and Local Government, ordered printed, and sent up for concurrence.

Reported Pursuant to the Statutes

Representative WEYMOUTH from the Committee on Fisheries and Wildlife, pursuant to Maine Revised Statutes, Title 12, section 7035, subsection 4, paragraph B ask leave to submit its findings and report that the accompanying Bill "An Act to Reimburse the Department of Inland Fisheries and Wildlife for Search and Rescue Operations" (H.P. 1190) (L.D. 1621) be referred to the Joint Standing

Committee on Appropriations and Financial Affairs for Public Hearing and printed pursuant to Joint Rule 18.

Report was read and accepted, and the bill referred to the Committee on Appropriations and Financial Affairs, ordered printed and sent up for concurrence.

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

REPORTS OF COMMITTEES

Ought to Pass in New Draft

Representative WALKER from the Committee on Fisheries and Wildlife on Bill "An Act Pertaining to the Placing of Bear Bait" (H.P. 607) (L.D. 825) reporting "Ought to Pass" in New Draft (H.P. 1189) (L.D. 1620)

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

Ought to Pass in New Draft

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Assistance to Victims of Natural Disasters" (Emergency) (H.P. 997) (L.D. 1343) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1197) (L.D. 1631)

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

CONSENT CALENDAR

First Day

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

(S.P. 325) (L.D. 953) Bill "An Act to Provide Increased Penalties for Door-to-door Fraud" Committee on Business Legislation reporting "Ought to Pass"

(S.P. 202) (L.D. 559) Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Inland Fisheries and Wildlife Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1988 and June 30, 1989" (Emergency) Committee on Fisheries and Wildlife reporting "Ought to Pass"

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

CONSENT CALENDAR

Second Day

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

(H.P. 1011) (L.D. 1364) Bill "An Act to Require Safety Engineering and Loss Control in Workers' Compensation Insurance Rate-Making Proceedings"

(H.P. 59) (L.D. 62) Bill "An Act to Assure Responsibility in Regulatory Decision Making" (C. "A" H-141)

(H.P. 914) (L.D. 1226) Bill "An Act to Require Archery Hunter Training" (C. "A" H-144)

(H.P. 1092) (L.D. 1483) Bill "An Act to Repeal Loyalty Oaths for Civil Emergency Preparedness Personnel"

(H.P. 1094) (L.D. 1485) Bill "An Act to Clarify Existing Law Regarding the Loss of Military Property"

(H.P. 1095) (L.D. 1486) Bill "An Act to Repeal the Removal of Ice Jams Provisions from the State Civil Emergency Preparedness Law"

(H.P. 207) (L.D. 259) Bill "An Act to Continue the Pine Tree Partnership Fund Program"

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

PASSED TO BE ENGROSSED

Bill "An Act to Provide Qualified Nursing Assistant Services" (S.P. 533) (L.D. 1604)

Bill "An Act to Require Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded to Include Provisions for Covering Increases in Insurance Premiums" (S.P. 532) (L.D. 1603)

Bill "An Act Concerning the Use of Safety Devices in Public Swimming Pools" (S.P. 534) (L.D. 1605)

Bill "An Act to Establish a Presidential Primary in Maine" (S.P. 531) (L.D. 1595)

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

LATER TODAY ASSIGNED

Bill "An Act to Require that Loads of Gravel, Sand, Crushed Stone, Wood Chips, Building Debris or Rubbish be Secure to Prevent Spillage" (H.P. 799) (L.D. 1073)

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

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

LATER TODAY ASSIGNED

Bill "An Act Relating to Agricultural Internship and Training" (H.P. 446) (L.D. 599)

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

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

PASSED TO BE ENACTED

Emergency Measure

An Act Amending the Laws Relating to Private Security Guards (S.P. 513) (L.D. 1555)

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

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: This bill, "An Act Amending the Laws Relating to Private Security Guards" was brought before the Legal Affairs Committee and we gave it a lot of thought and spent a lot of time on it.

I feel as though, and I am sure the whole committee does, that this bill defines the right of the employer and employee and is very fair to both of them. It gives the employer the right to protect

their property and yet it changes one loophole in the law that all security guards employed by a contract security company have to be licensed in this state, where as before, they did not have to.

It also looks into the background of all security guards when they are hired and it shows that you have to have proper people there.

It defines the weapons that can be used.

I feel this is a very good, safe bill and it should stop any incident from happening that happened in our state last year and should assure good peaceful labor relations.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Bickford.

Representative BICKFORD: Mr. Speaker, Ladies and Gentlemen of the House: I would ask for your support for this emergency legislation and would like to share with you the reasons why. I represent a community that has the potential of being involved in a labor dispute this summer. We are all aware of the scars that remain intact in the Rumford area after the Boise Cascade labor dispute last summer. It is important to the people that I represent that this type of affair doesn't happen again.

Following this New Draft through the process, it seems that both sides, the employer and employee, agree on its intent. Therefore, I would urge your support of L.D. 1555.

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

Representative PRIEST: Mr. Speaker, Men and Women of the House: Representative Murphy is absolutely correct as to what the bill does. There is one slight item I think is important to note, we have not licensed security guards but rather have established minimum standards for them to be employed. We did not go with a licensing provision but rather just required minimum standards.

I think the bill is a good bill and will go a long way towards stopping the type of labor confrontations we had in the last Boise strike.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I certainly do hope you will support this legislation. As you know, I am a Representative from Rumford and we did have severe problems last summer, this bill would address those.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 125 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Amend and Supplement Certain Powers of Hospital Administrative District No. 1 (H.P. 399) (L.D. 533) (H. "A" H-122; C. "A" H-118)

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

PASSED TO BE ENACTED

An Act Concerning the Open Season on Bear (H.P. 189) (L.D. 233)

An Act to Provide for Removal and Sale of Abandoned Motor Vehicles on Public Property (H.P. 712) (L.D. 963)

An Act to Change the Lime Laws (H.P. 925) (L.D. 1237) (H. "A" H-128)

An Act to Prohibit Sale of Foods Processed with Radiation (H.P. 1142) (L.D. 1552)

An Act to Require Insurers to Report Utilization Review Data (H.P. 1143) (L.D. 1553)

An Act to Exempt Municipal Combination Snowplows and Dump Trucks from the Weight Limitations Imposed on Other Highway Vehicles (H.P. 1144) (L.D. 1554)

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

FINALLY PASSED

RESOLVE, to Establish a Study to Set Standards for Driving when Under the Influence of Drugs Other than Alcohol (H.P. 713) (L.D. 964)

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

ORDERS OF THE DAY
TABLED AND TODAY ASSIGNED

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

An Act to Amend the Maine Tort Claims Act (H.P. 682) (L.D. 923) (C. "A" H-108)

TABLED - May 18, 1987 by Representative PARADIS of Augusta.

PENDING - Passage to be Enacted.

On motion of Representative Paradis of Augusta, retabled pending passage to be enacted and specially assigned for Wednesday, May 20, 1987.

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

An Act Permitting Private Mediation for Divorcing Couples (H.P. 1114) (L.D. 1508)

TABLED - May 18, 1987 by Representative ANTHONY of South Portland.

PENDING - Passage to be Enacted.

On motion of Representative Paradis of Augusta, was recommitted to the Committee on Judiciary in non-concurrence and sent up for concurrence.

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

Bill "An Act to Provide Special License Plates and Decals for People with Hearing Impairments" (H.P. 1106) (L.D. 1498)

- In House, Passed to be Engrossed on May 12, 1987.

- In Senate, Passed to be Engrossed as Amended by Senate Amendment "A" (S-63) in non-concurrence.

TABLED - May 18, 1987 by Representative DIAMOND of Bangor.

PENDING - Further Consideration.

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

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

HOUSE DIVIDED REPORT - Majority (10) "Ought Not to Pass" - Minority (3) "Ought to Pass" - Committee on Utilities on Bill "An Act to Create a Code of

Ethics for Public Utilities Commissioners" (H.P. 794) (L.D. 1066)

TABLED - May 18, 1987 by Representative VOSE of Eastport.

PENDING - Acceptance of Either Report.

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

Representative VOSE: Mr. Speaker, I move we accept the Majority "Ought Not to Pass" Report.

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

Representative REEVES: Mr. Speaker, Men and Women of the House: I hope that you will not vote "Ought Not to Pass" on this bill but vote to support the Minority "Ought to Pass" Report.

This is Larry Connolly's bill, which puts into statute a code of ethics for public utilities commissioners. This is an issue of developing guidelines for PUC commissioners conduct that would ensure their impartiality in making the extremely important decisions about utility rates and regulation of utilities that are so crucial to all of

Maine's ratepayers. This was an issue that Larry had been concerned about for several years. His recent concern and the recent concern of the press and the public about this issue had to do with some socializing of PUC commissioners with utility executives and possible inadvertent, inappropriate, ex parte discussions of issues that were before the PUC in a rate case.

Since this bill was presented to the Utilities Committee, the Public Utilities Commission itself, has brought to the legislative committee a proposed code of ethics which is attached to their employee handbook. We feel that this is an excellent step and that the language that the PUC commissioners proposed is very adequate and consistent with this bill.

It is our hope that the bill can be amended in Second Reading to reflect the language proposed by the PUC Commissioners. I hope that you will vote against the motion "Ought Not to Pass" and get this bill to Second Reading so that we can amend it with appropriate language.

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

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: For the very reasons that have just been given by the previous speaker, it is true that this code of ethics has been incorporated within the employees orientation handbook (which I have here.) I could read you some articles out of this which could show you very readily that that is sufficiently covered.

Also, you must realize that the commissioners are, in fact, judges, and as such, are restricted by law from certain contacts with the participants of a rate case. Example: Page 16 of this said book that I have been discussing has the ex parte communications -- "communications prohibited in any adjudicatory proceeding. No agent or member is authorized to take final action of presiding officers designated by the agency to make finds and facts of conclusion of the law shall communicate directly or indirectly in connection with any issue or fact, law or procedure with any party or other persons legally interested in the outcome of the proceeding except upon notice and opportunity for all parties to participate."

I have seen no real concern from any large group on this matter. As a matter of fact, this legislation was opposed by the Civil Liberties Union, they were against the bill. I was very hesitant to bring in anyone's name, particularly the sponsor of

this particular bill. But, I want you to know that if we choose to do so, and have chosen to do so, that at the end of the hearing when the gentleman that represented the Civil Liberties Union spoke against the bill, and then this green book, which is the book I referred to, was then given to the sponsor of the legislation. He, as well as the members of the committee, were surprised to see that this was in existence and quite happily surprised. Therefore, because of this and because there are changes made in all of these books at any given time, it is completely ludicrous (I believe) to put something of this nature into statute. As a matter of fact, most of the committee felt the same way.

Therefore, I would hope that you would support the Majority "Ought Not to Pass" Report.

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

Representative BAKER: Mr. Speaker, Men and Women of the House: As a rule, I never sign a report unless I intend to defend my position on the House floor. So, now I am going to go about that task.

Very often, the actions that we take in the legislature, carries with it more a message of perception by the public, than it carries with it a force of actual law. At times, we are very often faced with a choice of doing things by regulation through amending the administrative rules and procedures or by statute. In this particular instance, we are presented with a set of ethics by the Public Utilities Commission. We have a choice before us whether or not to accept the proposed ethics, which I am quite certain this PUC will follow or we could adopt these proposed ethics that were adopted by the National Association of Public Utilities Commissioners. We could put those into statute where they will remain on the law books for all future PUC's to follow unless they are amended or repealed by a future legislature.

The question here is one of perception and of the public's perception of how the PUC will conduct itself. It is my opinion that the public would probably feel more comfortable knowing that these ethics are on the statute books where they are more easily opened to public scrutiny and public hearing.

I would hope that you would allow this bill to be passed in first reading so that we can at least put the amendment on. Most importantly, we do not have a piece of legislation which is, in its current state, somewhat restrictive in terms of civil liberties. But we cannot adopt these proposed rules if we kill the bill on first reader, so I would hope that we adopt this and put it on the statute books.

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

Representative O'GARA: Mr. Speaker, Men and Women of the House: It is difficult for me to get up on this particular bill. I am very sorry that the name of Larry Connolly has been invoked here this morning because it brings back some very painful memories of the hearing at which he presented this bill because my last words to Larry Connolly (never having a chance to speak to him again) were spoken in anger. I was dismayed that he presented a bill which, in my judgment, is a bill which was and is unnecessary and which contained implications that I thought were very unfair. I will hold onto those thoughts for a long time, there is nothing I can do about that, never having had a chance to talk to him again.

The bill is not necessary, ladies and gentlemen of the House, and I hope that you will support the motion of the Representative from Eastport.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Holt.

Representative HOLT: Mr. Speaker, Men and Women of the House: I am one of the signers of the Minority Report. I hope that the members of this House will give this bill a chance to get those parts of it which some people certainly have good reason to object to. I still think it is a very good bill. If I were a public utilities commissioner, I should want spelled out the code of ethics and I should want the force of statute behind the code. There are many gray areas in perception of improprieties on the parts of public officials. There is just one small one I might call your attention to in the very good code of ethics that the PUC has drawn up for itself about accepting gifts. I think it is easier for a commissioner to refuse a gift from someone whose influence might fall into the gray area if he could say the gift or favor or loan was denied by the law. There are many other areas in this good bill that I think you could support.

I hope you will not vote for the motion before you but vote no so we will have a chance to amend out the difficult sections that the Civil Liberties Union was opposed to as well as other members of this body.

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

A vote of the House was taken.

Representative Reeves of Pittston requested a roll call vote.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Vose of Eastport that the House accept the Majority "Ought Not to Pass" Report.

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

Representative DIAMOND: Mr. Speaker, I request permission to pair my vote with Representative Boutillier of Lewiston. If he were present and voting, he would be voting yes; I would be voting no.

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

ROLL CALL NO. 58

YEA - Anderson, Armstrong, Bailey, Begley, Bickford, Bost, Bott, Bragg, Callahan, Cashman, Clark, H.; Coles, Cote, Crowley, Curran, Davis, Dellert, Dexter, Duffy, Erwin, P.; Farnum, Farren, Foss, Foster, Garland, Greenlaw, Gwadosky, Hanley, Harper, Hepburn, Hichborn, Hickey, Higgins, Hillock, Holloway, Hussey, Ingraham, Jackson, Jacques, Jalbert, Joseph, Ketover, Kimball, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Macomber, Manning, Marsano, Martin, H.; Matthews, K.; McGowan, McHenry, McPherson, Melendy, Michaud, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Nicholson, Norton, Nutting, O'Gara, Paradis, P.; Parent, Paul, Perry, Pines, Racine, Reed, Rice, Richard, Ridley, Ruhlin, Salsbury, Seavey, Sheltra,

Sherburne, Small, Smith, Soucy, Stanley, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Telow, Thistle, Tracy, Tupper, Vose, Walker, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

NAY - Aliberti, Allen, Anthony, Baker, Carroll, Carter, Chonko, Clark, M.; Conley, Dore, Dutremble, L.; Gould, R. A.; Gurney, Hale, Handy, Hoglund, Holt, Kilkelly, Lacroix, LaPointe, Mahany, Mayo, McSweeney, Mills, Mitchell, Paradis, J.; Priest, Rand, Reeves, Rolde, Rotondi, Rydell, Scarpino, Simpson, Swazey, Warren.

ABSENT - Brown, Paradis, E.; Pouliot, Stevens, P.; Tamaro, Tardy, Taylor, The Speaker.

PAIRED - Boutilier, Diamond.

Yes, 103; No, 36; Absent, 8; Vacant, 2; Paired, 2; Excused, 0.

103 having voted in the affirmative and 36 in the negative with 8 being absent, 2 paired and 2 being vacant, the motion to accept the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

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

RESOLVE, to Authorize the Commissioner of Mental Health and Mental Retardation to Continue to Employ Charles E. Meredith, M.D., as Superintendent of the Bangor Mental Health Institute (Emergency) (S.P. 510) (L.D. 1534)

TABLED - May 18, 1987 by Representative MANNING of Portland.

PENDING - Final Passage.

On motion of Representative Manning of Portland, retabled pending final passage and later today assigned.

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

An Act to Revise the Maine Medical Laboratory Act (S.P. 191) (L.D. 518) (C. "A" S-61)

TABLED - May 18, 1987 by Representative MANNING of Portland.

PENDING - Passage to be Enacted.

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

The Chair laid before the House the following matter: Bill "An Act to Provide Funds to Local School Administrative Units and to the Department of Educational and Cultural Services to Implement and Meet the Requirements of the Teacher and Administrator Certification Laws" (Emergency) (H.P. 1193) (L.D. 1625) which was tabled earlier in the day and later today assigned pending reference.

(The Committee on Reference of Bills had suggested the Committee on Education).

On motion of Representative Carter of Winslow, was referred to the Committee on Appropriations and Financial Affairs, ordered printed and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

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

SENATE PAPERS

Bill "An Act Making Allocations for the Expenditure of Funds Received by the State as a Result of a Federal Court Order in the Stripper Well Overcharge Case" (S.P. 537) (L.D. 1623)

Came from the Senate, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

The SPEAKER: The Record will indicate that this is a Governor's Bill.

Was referred to the Committee on Appropriations and Financial Affairs in concurrence.

Bill "An Act to Clarify Certain Errors and Inconsistencies in Marine Resources Law" (Emergency) (S.P. 539) (L.D. 1628)

Came from the Senate, referred to the Committee on Marine Resources and Ordered Printed.

The SPEAKER: The record will indicate that this is a Governor's Bill.

Was referred to the Committee on Marine Resources in concurrence.

(Off Record Remarks)

Representative McSweeney of Old Orchard Beach was granted unanimous consent to address the House.

Representative MCSWEENEY: Mr. Speaker, when we recess today, I would like everybody to say a silent prayer for the young men that died on the ship over there in the Middle East.

(Off Record Remarks)

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

SENATE PAPER

Non-Concurrent Matter

Joint Order (S.P. 504) relative to Recalling Bill "An Act to Clarify the Description of Crooked River in Cumberland County and to Extend Special Protection to Outstanding Rivers to the Crooked River" (S.P. 38) (L.D. 26) from the Legislative Files to the Senate which failed of passage in the House on May 18, 1987.

Came from the Senate with that Body having insisted on its former action whereby the Joint Order was passed in non-concurrence.

On motion of Representative Michaud of East Millinocket, the House voted to insist and ask for a Committee of Conference.

On motion of Representative McSweeney of Old Orchard Beach,

Recessed until five o'clock in the afternoon in memory of the men who lost their lives on the Frigate USS Stark.

(After Recess - 5:00 p.m.)

The House was called to order by the Speaker.

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

SENATE PAPER

Non-Concurrent Matter

RESOLVE, Establishing the Special Commission to Study the Use of State Valuation in Allocation of State Funding Among Municipalities (Emergency) (H.P. 1115) (L.D. 1509) which was passed to be engrossed in the House on May 12, 1987.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-68) in non-concurrence.

The House voted to recede and concur.

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

SENATE PAPERS

Unanimous Leave to Withdraw

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act Concerning Disclosure of Costs Related to Attorneys Contingency Fees" (S.P. 236) (L.D. 630)

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

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative MACOMBER from the Committee on Transportation on Bill "An Act to Promote Public Safety in Maine Through the Greater Use of Seat Belts" (H.P. 716) (L.D. 967) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative MACOMBER from the Committee on Transportation on Bill "An Act Concerning the Motor Vehicle Registration Requirements for Equipment Dealers" (H.P. 747) (L.D. 1010) reporting "Leave to Withdraw"

Representative PRIEST from the Committee on Legal Affairs on RESOLVE, Authorizing Richard W. Kane or his Legal Representative to Bring a Civil Action Against the State (H.P. 976) (L.D. 1323) reporting "Leave to Withdraw"

Representative TARDY from the Committee on Agriculture on Bill "An Act to Lower Milk Prices by Regulating Maximum Retail Milk Pricing Margins" (H.P. 1168) (L.D. 1594) reporting "Leave to Withdraw"

Representative SWAZEY from the Committee on Taxation on Bill "An Act to Realign the Tax Laws of the State as They Relate to Telecommunications" (H.P. 230) (L.D. 298) reporting "Leave to Withdraw"

Representative HANLEY from the Committee on Judiciary on Bill "An Act to Require that Presentencing Reports be Made on All Persons Convicted of Sex Offenses" (H.P. 972) (L.D. 1319) reporting "Leave to Withdraw"

Representative BEGLEY from the Committee on Judiciary on Bill "An Act to Eliminate Certain Current Exemptions in the Determination of Child Support Obligations" (H.P. 634) (L.D. 857) reporting "Leave to Withdraw"

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

Reported Pursuant to Public Law 1983, chapter 845, section 5.

and Public Law 1987, chapter 84

Divided Report

Majority Report of the Committee on Education reporting "Ought to Pass" on Bill "An Act to Improve the Teacher and Administrator Certification Law" (H.P. 1195) (L.D. 1629)

Signed:

Senators:

ESTES of York
KANY of Kennebec

Representatives:

MATTHEWS of Caribou
GOULD of Greenville
PARADIS of Frenchville
BOST of Orono
O'GARA of Westbrook
HANDY of Lewiston
KILKELLY of Wiscasset
NORTON of Winthrop

Minority Report of the same Committee reporting "Ought to Pass" on Bill "An Act to Enhance the Certification of Educational Personnel Law" (H.P. 1196) (L.D. 1630)

Signed:

Senator:

RANDALL of Washington

Representatives:

SMALL of Bath
LAWRENCE of Parsonsfield

Reports were read.

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

Representative BOST: I move that the House accept the Majority "Ought to Pass" Report.

Mr. Speaker, Men and Women of the House: I urge you today to support the report before you, L.D. 1629, "An Act to Improve the Teacher and Administrator Certification Law." The Majority Report from the Committee on Education is reflected in this. It is a strong bipartisan sentiment of ten members of our committee with regard to teacher and administrator certification.

Over the past eight weeks, the Education Committee has worked on its charge by law to review the recommendations of the State Board of Education on the certification of educational personnel and to report its final recommendation to this legislature. It has not been an easy process. For the Record, our committee was presented with those recommendations from the state board at the eleventh hour, facets of which required a great deal of deliberation, a great deal of thought. As a result of these time constraints imposed upon us, we felt that we had to extend our statutory reporting an additional month; thus, you have before you now the culmination of that work.

The Education Reform Act of 1984 was, without a doubt, a giant step forward in educational excellence in Maine. It has put in place a foundation for teachers and administrators to excel and has provided them the tools to do so. Despite the ongoing debate about the best way to finance those reforms, the initiatives themselves, remain solid.

The bill before you does the following all in accordance with the recommendations of the State Board of Education. Very briefly, it continues work that is currently being done on administrative certification, changing the implementation dates by one year. It keeps in place the first two levels of teacher certification. It amends the current law changing the State Board of Education's report to the legislature from every six years to an annual report. And it recommends that the funding for certification, as recommended by the commissioner, be allocated.

The master teacher designation has been one bone of contention in the certification law. For this

reason, and wisely so, we determined in the 111th Legislature that we pilot the third tier and to access the impact at a later point giving it a chance to unfold.

Ladies and gentlemen of this House, for ten members of the Education Committee and for thousands of teachers throughout Maine, the results are in and they are conclusive. No matter what you choose to call the third tier, whether it be master teacher or professional level two, it has not worked.

The committee felt that, with all of the positive dynamics of the certification law and there are so many, that to endorse a small portion of that law, which only serves to pull down the rest of the certification rules, would be irresponsible.

The master teacher designation has effectively pitted teacher against teacher and, when that happens, the process breaks down. When parents become vocal that they do not want their children to be taught by anyone but a master teacher, as has been the case in many pilots, the process breaks down. When you have many superior teachers in a school system, but only a few are given the master teacher designation, usually arbitrarily, the process breaks down. When you then attach the issue of compensation to master teacher and pay that person more than other good teachers in the same system, teachers who are already underpaid, the process breaks down. When you pull the supposedly best teachers out of the classroom for several days per week and assign them to administrative tasks or curriculum development and put substitute teachers in their place, the process not only breaks down, but it defies the very purpose of master teacher.

When the financial ability of a school district to compensate master teachers determines the number of master teachers that that school district has, and it does, it only amplifies the disparity between the haves and the have-nots. Ask yourselves whether schools with large budgets and the ability to pay for additional programs have more genuine master teachers in their ranks than the small, rural, poorer schools. The majority of the Education Committee said no. Then ask yourselves — what is a master teacher? As we studied the results of the pilot sites, we determined that there were as many definitions as there were pilot sites. If a survey were to be taken here in this House today, the same would probably be true. It defies a tangible definition. Therefore, we do not believe it should be placed in law.

I want to make it clear today that our decision to discontinue the master teacher designation does not preclude any local school from initiating its own master teacher program. Of course, that is the real litmus test. If it remains as good a concept as some would have you believe, the initiative could be implemented at the local level. It is my belief that the concept, as written, will not work whether it be a local option or a statewide mandate. The fact remains that it can be done.

To give you an idea of the sentiment toward master teacher among teachers themselves — and I think this is very important — I cite the following data: "In a random survey conducted from Kittery to Fort Kent, during the first week in May of this year, by Intersearch Corporation, 300 Maine teachers were polled, 256 were opposed to the master teacher idea, 33 were in favor, 11 were unsure". That translates in percentages to 85.3 percent against, 11 percent in favor and 3.7 percent unsure. The last figure leads me to my next point.

If the debate here today is focused on the continuation of pilot programs, because supposedly

the jury is still out on master teachers and that teachers aren't clear enough as yet on its implications and need another year of review, the figure of 3.7 percent does not bear that out. The teachers in the field recognize what works and what doesn't.

The ten members of the Education Committee who signed this report did so for yet another reason, that it is inconsistent with the intent of a state level licensing law. Statewide certification is designed to provide sound educational instruction to our school children. Master teacher is, in reality, a form of differentiated staffing and compensation within individual school systems. As such, it is a local function, should be dealt with by individual school units as their needs and resources dictate. The majority of the committee recommends that master teacher be deleted from the state certification law, as I indicated earlier, left to the local units to implement, if they so choose.

The majority of the committee supports the local option and would be prepared to support a program which would encourage local staff development programs based on locally developed criteria, needs, and ability to pay.

Then there is the issue of common sense. When there are laws on the books which are widely disregarded or which a majority of people do not agree with, there are usually large numbers of people in noncompliance. Witness the number of motorists who travel over the posted 55 mile per hour speed limit. The same can be said of those in the teaching profession. If a level of certification does not have the support of the very people who are supposed to abide by it, how are we to expect it to work?

I would like to conclude with remarks from Linda Voss, Maine's 1987 Teacher of the Year, when she appeared before the Education Committee last month. And I quote, "In my 13 years of teaching, I have found that labeling kids as winners and losers does not work and I doubt that it will work any better for teachers. What I do believe is that every teacher has something he or she loves to teach and is good at teaching. Instead of destroying collegiality with master teacher competitions, schools should be sharing the talents of their teaching staffs instead of creating islands of master teachers, we should be building bridges of communication so that students would have teams of good teachers to prepare them for life." She continues very briefly, "All of the strife and unanswered questions about master teacher bother me because I think of all the good things we could be doing for the kids in the classrooms with the money that is being spent promoting master teachers. So, when people refer to me as a potential master teacher I say, 'No thank you. Being called teacher by the kids in my classroom is honor enough.'"

I urge the House today to go along with the strong bipartisan Majority Report of the Committee on Education.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Matthews.

Representative MATTHEWS: Mr. Speaker, Men and Women of the House: I strongly support the Majority Report. After talking with many teachers and administrators from different sections of the state, I believe that the third tier is entirely unnecessary. Several very relevant opinions were presented at the hearing as testimony. One of these was that most teachers do not want to become quasi-administrators. Many seem to feel that we need to concentrate on the provisional teacher so they can grow and we need to upgrade the standards of the

professional teacher so that these professionals can gain greater control over their own profession.

After two years of piloting, the results are being tabulated and conclusions are being drawn. With the exception of the third level, almost everyone agrees on the successes of this new law. The pilot sites have been valuable in developing the new certification law. The staff development training and released time for classroom teachers to work in support teams with beginning colleagues will be of utmost importance and benefit. Veteran teachers have experience, knowledge, and expertise that can be made available through support teams and class visitations that will aid the entry of beginning teachers into the teaching profession and help keep them in teaching.

Teachers support teams through that assistance will foster and reinforce the collaborative danger nature of the teaching profession.

I do not believe in the educational value of the master teacher category. The cost of pilot sites have demonstrated that, after two years of experimenting, it has not worked. Two years is long enough to test an experiment. We have to have the courage to admit that one part of the experiment is a failure. It has already raised concerns of parents who may look at this as an evaluation, not certification, and therefore, will call schools requesting one teacher over another for placement of children in certain rooms creating a scheduling problem for guidance and administrative staff.

One of the major problems with the three tier certification law is that, in addition to being expensive and taking good teachers out of the classroom, it creates an atmosphere of mistrust and competition among staff. Students benefit from consistency in their education. They receive this when all teachers who work with them are working in cooperation. When teachers are divided by an arbitrary designation, which makes one teacher to appear to be superior to the rest of the team, some animosity is apt to appear. This can only be detrimental to the moral of the teachers and education of the students.

I will quote from something I heard from some teachers in the "why not" column. First, "Why not tighten up university criteria for teacher graduation?" "Why not tighten administrative guidelines for teacher evaluation?" "Why not make teachers salaries comparable to other professional salaries so the best students of today will choose education as a career?" "Why not give opportunities for teachers to make the critical decisions about how their schools operate improve college teacher training?" "What other profession designates the level of so-called competency in their field? Lawyers don't, doctors don't, dentists don't — so why should I intern and then full professional?" "For a master teacher — if I had known two and half years ago the amount of time, energy, aggravation and animosity involved, I would never have applied for a master teacher certificate." This person is an excellent teacher who enjoys teaching. She is now often out of her classroom and leaves the responsibility of teaching her students to someone else.

How would you decide on a master teacher? Is the teacher who emphasizes critical thinking skills better than the back-to-basics teacher or is a sympathetic teacher better than the no-nonsense disciplinarian? Is a teacher with an advanced group of students who do well on tests better than the teacher who works with the below grade level group? How would you use master teachers? Are they junior

administrators? Curriculum coordinators? Staff development experts? Teacher trainers? Master teacher certification would hinder the positive development of the first two tiers of certification. You take away much needed resources from all teachers for a few under uncertain and questionable ways of identifying master teachers.

When non-teaching activities such as chairing curriculum committees, developing curriculum in the summer, serving as chair of support teams, be limited to those who hold a master teacher certificate — if you put the current master teacher certificate holders in the same school systems, you would see a wide variance in teaching skills.

The state should limit itself to licensing teachers and not licensing by evaluating some to be superior to others as this master teacher category would do. Think of the medical profession where the internship is equivalent to our provisional time. After that, a physician is a physician, there are no distinctions between physicians and master physicians. A lawyer is a lawyer, once he or she is certified or licensed, there are no state certified master lawyers.

A little financial word here — from the Legislative Office of Fiscal and Program Review, the proposed legislation deleting the master teacher level of certification would result in some savings to local school units who would be relieved of this burden of developing an action plan for this level of certification.

Finally, in view of the negative feeling concerning master teacher, I believe we should eliminate the third tier of certification in order to concentrate on the successes of the law under the provisional and professional teacher level.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Small.

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: Before I begin my scheduled speech on the Minority Report and ask you to vote against the Majority Report, I would like to answer a few questions that were raised, at least in my mind, from a previous speaker.

In earlier testimony, Representative Bost said that in the pilot programs few teachers were allowed to obtain the master teacher level. It is the intention of the state board and the Commissioner of Education that all teachers have open and equal access to the third level of licensure. For those pilot programs that perhaps did not allow this, we can conclude that they were not as successful, but under some pilot programs, specifically in Kennebunk and some of those areas, teachers that wanted to get into the master or the third level licensure program, were allowed to. As I said, it is the full intention of the state board that any teacher have access to this.

Representative Bost said that the master teacher title will make all parents want that teacher for their children. Well, we are changing in the Minority Report the title to professional level two and I assure you, right now, parents already know who the good teachers are and they request them.

Representative Bost said the cost of the program will be prohibitive to small units. I, more than anyone else, have been championed for the small units, meaning state mandated costs. Certification costs are being paid for by the state, total state dollars. What the schools will pay master teachers will be decided locally, just as they negotiate what a teacher with a masters degree will receive.

Representative Bost said that most teachers do not want the third level. The MTA has never polled

its rank and file membership and the other teacher union is in favor of continuing the pilot programs.

Finally, no teacher will be forced to obtain the third level certificate, it is not compulsory. Those wishing to improve themselves, can, and those who don't, won't.

I hope now that you will vote against the Majority Report so we can then offer the Minority Report on the same bill. The two reports are essentially the same with one exception. We retain the third level of certification, the master teacher provision, and ask that it be piloted one more year.

As you know, the state board was charged by law to report back to the legislature on certification and two of their recommendations are to change the title of master teacher to professional level two, to take away the objections of the master title and to continue the pilot sites for one more year. Your vote today is not for or against the master teacher or third level. True, if you vote with the Majority Report you will be eliminating from law the third level of certification. But, if you vote for the Minority Report, you will not be voting to implement the third level into all of our schools, you will be voting to follow the state's board recommendations to further pilot the third level. After the pilots are finished, after the state board evaluates the sites, after the state board makes its recommendations to the legislature, then we will vote yes or no on the third level.

Reasons for continuing the pilot sites are many. After piloting 20 sites, the board accumulated the results. Some pilots were extremely successful and some were not. You will be asked to halt the entire process for the third level because some sites were unsuccessful but that is the idea of pilots, to see what works and what doesn't. If you have 20 successful pilots, you didn't need to pilot it in the first place. The state board has taken aspects which were successful and incorporated them into their final recommended standards for certification, these would then be piloted in three final sites for one year. In other words, we know what did work and what didn't. Let's see if it holds true for the next three sites. If the state board decides their blueprint for statewide standards for third level is unworkable, they may bring us recommendations to eliminate the third level. Only then, will I feel it is a well-reasoned decision and not a political one.

For those of us who were on the Education Committee when the certification plan was adopted, the bold step we took was not an easy one. We worked as a bipartisan group to come up with a plan to enhance the teaching profession to help keep excellent teachers in the classroom and not push them into the administration and to ultimately provide a better education for our children.

The premature elimination of the third level will send a poor message to the public -- a fear of change and unwillingness to challenge ourselves and our teachers and an acceptance of mediocrity. Maine was a leader when it enacted its landmark legislation on teacher certification. Let's not take a giant step backwards.

Mr. Speaker, I request a roll call when we vote on this.

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 Kittery, Representative Soucy.

Representative SOUCY: Mr. Speaker, Ladies and Gentlemen of the House: I don't stand up and speak very often on the floor but today I stand and ask you to vote for the Minority Report.

I think a lot of energy has gone into this reform act. One, we do have support teams for probationary teachers, they are in place, they are working. We have support teams for the professional teacher. We are moving ahead with teacher administration certification. It just seems to me that we are going to leave out the professional level two for the teacher who has been on the job for five or six years. I think we need this one additional year to let us find out if it is really going to work.

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

Representative LAWRENCE: Mr. Speaker, Men and Women of the House: The bill before you is introduced without benefit of an orderly procedure to ascertain conclusive evidence that a third tier of teacher certification is or is not in the best interest of children, instruction, or the profession. My experience rebels against conclusions drawn from incompleting projects, opinions, hearsay and emotions fueled by numbers and not substance. I oppose L.D. 1629 because it nullifies the orderly process legislated to ascertain if the concept underlined in third tier certification of teachers is valid or invalid.

The 1984 legislation contains specific directions for the implementation of the new certification laws. It provided for a series of pilot projects to be administered cooperatively by the Department of Education, state board, and local units. The state board was to conduct the review of the act, pilot projects, and rulemaking activities and to make recommendations to the Joint Committee on Education. The pilot projects, in my judgment, are comparable to experimentation and research, which base recommendations and conclusions on experience, findings and facts, and not opinions or emotions.

The Department of Education and the state board were directed to study all aspects of the new certification law including the master teacher law. The State Board of Education recommended the third level of certification to be renamed professional two and to continue piloting. It conceded that additional piloting might result in discontinuance and lack validity to support reinforcement of the professional two licensing. The board has asked for a continuation of piloting to evaluate the validity of observations before recommending statewide implementation of the third tier of certification.

Deletion of the third tier of certification, at this time, would undermine the development of teaching as a profession. It would deny teachers the opportunity to accept responsibility for professional growth. It would be the acceptance of opinions of those who have not participated in the pilots and those who resist change. It would accept opinions over conclusive evidence required of any pilot or any research study. It would be to deny the limited time available for the third tier piloting due at the time required to make successful the provisional and the professional one certification. It would judge the concept of third level certification as invalid when the state board recommendation needs more time to prove or disprove

its worth and clarify the issues of concern. The pilot should not be dismissed because immediate changes at the school level have not been seen.

I urge you to reject L.D. 1629.

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

Representative RICHARD: Mr. Speaker, Ladies and Gentlemen of the House: We are constantly being cautioned here on the floor of the House, this looks like some legislation we just passed. Give it a chance to nurture before we kill it or make changes in it.

Today, we are asked to come up with a death penalty. It's rather early in the session for it I realize, but this is what it boils down to. We are asked to kill something before it has actually had a chance to prove itself, one way or another. I think that's unfortunate. We have heard just very, very brief references to children here in Maine. If one were to really look at this realistically, the ultimate goal and the ultimate line boils down to the bottom line being -- which is going to help the students from Maine to benefit more, should it be with an opportunity perhaps to continue this program for one more year and let it have a chance to prove itself? Maybe it will strengthen the opponents' argument or it will weaken it and that's as it should be. But I truly believe this has not had a true chance to have the true trial that it should have had.

I, too, would urge you to reject the Majority Report so we then can accept the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: During my lengthy career in education, I served in a variety of positions. Specifically, I served as an elementary school teacher, elementary school principal, a secondary school teacher and sub-master of a private academy. Later, I served as a Superintendent of Schools. I joined the Department of Education in 1967 and held four positions, including that of Associate Commissioner, under which the certification of all educational personnel was conducted.

On the basis of my experience and my observations, I have concluded the master teacher plan, the proposed third level of teacher certification, should be eliminated because it is inconsistent with the intent of the licensing process.

The master teacher tier is related to staff development and assignment, and therefore, is a local, not a state function. The dual purpose and role of certification is frequently misunderstood, both by educators and by the lay public. This misunderstanding is often caused by the perception that certification criteria and the qualities possessed by successful teachers are somehow so closely linked that a cause and effect relationship exists between the two.

Although there is general agreement that successful teachers are intelligent, caring people, who enjoy working with children, possess classroom teaching and management skills, and have a broad educational background, the certification criteria cannot guarantee any of the aforementioned characteristics and attributes.

Certification can, however, considerably raise the probability that a person who meets the criteria will more likely be successful working with children than a person who does not meet the criteria. In general, a person meeting certification criteria, will have at least the following characteristics:

sufficient intelligence to pass the required courses in a degree program, willingness to work with young people, exposure to experiences dealing with classroom management, psychology of learning, methods of teaching, an educational history and philosophy, and an awareness of the needs of all students.

The first role of certification is the granting of an initial license to an individual, thus assuring parents and the public that this individual has the necessary qualifications to teach.

Secondly, the certification process verifies that this teacher has met requirements necessary for license renewal. All professions have licensing procedures. However, in no case, are those procedures used to determine what role an individual will assume in the workplace. These decisions become the prerogative of the organization, just as a law firm decides how to utilize its licensed personnel, so must each individual school system make that same decision.

The goals of the master teacher plan are good ones -- identifying outstanding teachers and keep them in the classroom, promote career development and advancement opportunities, and involve them in curriculum planning, evaluation and instructional decision making. Therefore, each individual school system, not a state licensing division, should plan an appropriate staff development program based on assessed needs. Designed by teachers and administrators, these programs would utilize the many different talents of outstanding teachers, unlike a static master teacher category, a staff development plan would identify different individuals whose expertise matched a particular program need.

Maintaining the two tier certification plan will ensure that individuals have met the necessary licensing requirements as they begin and continue to teach. And, incorporating the goals of the master teacher plan through staff development programs, will prevent violation of the licensing process.

I would like now to make one comment that represents my district. I have not had one teacher call me at my home in favor of this. I have had as many as 25 call as of last night raising objections to it. That's highly unusual, the most calls I have had on any one issue.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Ladies and Gentlemen of the House: In the summer I spend my time working with the Wiscasset Recreation Program. We spend a lot of time playing with six, seven and eight year olds. A favorite activity is building with blocks. The various sizes and shapes are stacked and restacked in creative designs. The children learn very quickly that the quality of their total design is dependent upon the strength of the base, even a six year old is able to understand that you can't build the bottom, the middle and the top of the building at the same time.

The teacher certification pilot project was a similar experimental process. The piloting was similar in trial and error of building a block house. It began with an idea, and then practice. Now it's time to review that practice, decide what has been successful, and proceed to build good, strong houses that will last for the future.

The pilot project for teacher certification has been successful. Both the reports and the teacher testimony clearly show us that the support team certification process for new teachers and for

teachers, that require recertification, has worked. The process has assisted teachers in becoming effective education teams. The base levels of teacher certification have proven effective in utilizing time and money to the fullest and have the strong support of those people who need to implement them.

The master teacher level, by reports of those involved, has proven divisive. The standards by which master is defined are unclear and vary from school to school. The commissioner has stated that compensation does not go with the additional work and title and where are our children in all of this?

Last week, one superintendent told legislators that master teachers were not out of the classroom more than a third of the time. Well, a third of the time are 60 student contact school days -- 60 school days of a substitute who may or not be certified in that grade level or that specialty. Is that what we really want for our children?

Just as my kids play with blocks and learn how to build a good strong base and houses, I believe we need to focus our attention on the two levels of certification to create a strong system of certification that will strengthen the teaching profession in Maine. Nothing in this bill precludes local districts from going further in staff development. The role of the state in this case is to provide minimum standards for licensing -- a strong base that will support, allow, and encourage local units in their individual staff development programs.

I urge you to support this motion. I would like to make one comment on the costs. We have approximately \$2.2 million budgeted for teacher certification. That's based on \$100 per teacher and \$250 per administrator. The reports that we have received have shown the costs of the pilots to be between \$158 per teacher, up to \$3,000 per teacher. What's going to happen if the latter is correct? We have not gotten clear indication that, if we do continue the pilot sites, if that money will be taken out of the \$2.2 million, thereby, reducing that \$100 per teacher. I think these are some serious questions that need to be discussed.

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

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I think it's a sorry day indeed for education in the State of Maine when the MTA has taken over the Education Committee. I was one who worked long and hard for education reform. MTA was also very much present at this time and pushed for the three levels of certification, and now, before the process can be finished, they are ready to dump it.

Most parents want the best teachers possible for their children. This is how we can attain it. I urge you to vote for the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I will be extremely brief. I want to let you know just one thing, MTA did not dictate to me how to vote.

Everyone of us in this House has our own opinions, and in the final analysis, the only decision we can reach is based upon our own decisions. I have talked to many people, both pro and con, who are teachers. I have talked to many superintendents -- pro and con. But I just want you to know that I know the Education Committee well enough to know that those people on both sides are using their own minds and their own thought process.

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 Orono, Representative Bost, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 59

YEA - Aliberti, Allen, Anderson, Baker, Begley, Bost, Boutilier, Carroll, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Curran, Dellert, Diamond, Dore, Erwin, P.; Farren, Gould, R. A.; Gurney, Handy, Harper, Hepburn, Hickey, Hoglund, Holt, Hussey, Jackson, Jacques, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lisnik, Look, MacBride, Macomber, Mahany, Manning, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. R.; Norton, Nutting, Paradis, J.; Paradis, P.; Parent, Perry, Pouliot, Priest, Rand, Reeves, Rice, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Smith, Swazey, Tardy, Telow, Thistle, Tracy, Vose, Walker, Warren, Weymouth, The Speaker.

NAY - Armstrong, Bailey, Bickford, Bott, Bragg, Brown, Callahan, Carter, Davis, Dexter, Farnum, Foss, Foster, Garland, Greenlaw, Hichborn, Higgins, Holloway, Ingraham, Jalbert, Lawrence, Lebowitz, Lord, Marsano, McPherson, Murphy, E.; Murphy, T.; Nicholson, Paradis, E.; Paul, Pines, Racine, Reed, Richard, Salsbury, Scarpino, Seavey, Sherburne, Small, Soucy, Stanley, Stevens, A.; Stevenson, Strout, B.; Tupper, Webster, M.; Wentworth, Whitcomb, Willey, Zirkilton.

ABSENT - Anthony, Duffy, Dutremble, L.; Gwadosky, Hale, Hanley, Hillock, Kimball, Nadeau, G. G.; O'Gara, Simpson, Stevens, P.; Strout, D.; Tamaro, Taylor.

Yes, 84; No, 50; Absent, 15; Vacant, 2; Paired, 0; Excused, 0.

84 having voted in the affirmative and 50 in the negative with 15 being absent and 2 vacant, the Majority "Ought to Pass" Report was accepted, the bill read once and assigned for second reading Wednesday, May 20, 1987.

Divided Report

Majority Report of the Committee on Marine Resources reporting "Ought Not to Pass" on Bill "An Act to Repeal the 2-inch Clam Law" (H.P. 622) (L.D. 841)

Signed:

Senator: ESTES of York
 Representatives: RICE of Stonington
 SALSBUURY of Bar Harbor
 CROWLEY of Stockton Springs
 COLES of Harpswell
 LOOK of Jonesboro
 KETOVER of Portland

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Amend the 2-inch Clam Law" (H.P. 1191) (L.D. 1622) on same Bill.

Signed:

Senators: MATTHEWS of Kennebec
 CAHILL of Sagadahoc
 Representatives: MITCHELL of Freeport

HOLT of Bath
 SCARPINO of St. George
 RUHLIN of Brewer

Reports were read.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I move that the House accept the Minority "Ought to Pass" Report.

I am delighted to bring you this clam bill on this wonderful afternoon. This bill does two things. First it increases the percentages of licenses that a municipality that has a municipal shellfish ordinance must issue to non-residents from 10 percent of the total licenses to 15 percent of the total licenses.

Secondly, it closes a loophole in the existing law that allowed some municipalities to get around even issuing 10 percent of the licenses.

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

Representative RICE: Mr. Speaker, Ladies and Gentlemen of the House: I rise today and urge you not to accept the Minority Report but to accept the Majority Report of the Committee on Marine Resources.

This is a little difficult to explain so I hope you will bear with me. The two-inch clam law was enacted several years ago by this body. This year we had another bill which would have eliminated the two-inch clam law, but the majority of the committee members felt that, since this bill sunsets in 1988, and the Department of Marine Resources, along with the Committee on Marine Resources, will be reviewing the legislation at that time, that this perhaps was a little premature.

The major concern that I have with this bill today is that it changes the percentage of non-resident licenses in those communities that have a shellfish conservation ordinance. The total number of licenses is determined, and then a percentage (currently 10 percent) is allocated to non-residents. This bill would increase that to 15 percent, thereby, denying some residents, a license. I feel that the bill is premature, that next winter the committee and the department as I said, will be reviewing this piece of legislation, and that at that time these discussions will all be very timely.

I urge you not to accept the "Ought to Pass" and Mr. Speaker I ask for a division.

The SPEAKER: A division has been requested.

The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker, Men and Women of the House: I rise in support of the "Ought to Pass" Report. I represent many clam diggers and must say I have a great deal of respect for these folks. This year I was presented a petition with over 130 names asking for the Committee on Marine Resources to repeal the 2-inch clam law. Diggers on the Medomak River in Waldoboro tell me that the conditions of this particular river warrant the clams to be thinned out to grow properly -- almost like thinning a vegetable.

Many of the diggers believe the 2-inch clam law has had a serious impact on their ability to make a living.

A very interesting thing happened at the public hearing on this bill. Both proponents and

opponents were on their feet talking about the need to address the problem of non-resident licenses. The Committee has worked on this premise and a Divided Report is here before you today.

Clamming is the only fishery regulated on the town level. Not all communities have town ordinances, and many people including myself, believe it is unconstitutional to sell a state clam license and then, allow towns to restrict access for people who have purchased a state license.

The amended bill before you does have the potential of helping the diggers in my area from District 79 to have more access to clam flats.

I urge your support of the "Ought to Pass" Report.

Mr. Speaker, I request a Roll Call.

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

Representative WENTWORTH: Mr. Speaker, Members of the House: In my district we also have a clam ordinance, but because of the scarcity of clams now, I would hope that you would not increase the non-residents because the residents are paying for clam protection, and the residents should have the right to dig first.

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

Representative SCARPINO: Mr. Speaker, Men and Women of the House: First, I stand in favor of the Minority Report. Let me explain the situation a little bit.

We have 85 towns on the coast of the State of Maine with clam flats. Currently, 43 of those towns have municipal ordinances, 42 do not. The 42 towns with no municipal ordinances allow any residents of the State of Maine to dig clams in those towns. The towns with the resident licenses and ordinances restrict the diggers from the general population of the State of Maine to 10 percent of the licenses issued to resident diggers.

What that comes down to folks is, you or any one of your constituents can go out, whether he lives in Aroostook county or he lives in St. George, and pay \$13 and get a license to dig clams in the State of Maine. If he wants to go and dig clams any place in the state, it is going to cost him over \$4,000 a year to do it, if he can get all the licenses, because that's what it costs.

The problem we're in now comes from the simple fact that the state recognizes that the towns have authority over the flats, but the resource is a state resource held for the general good. We have towns defining the general good, as the general good of the town rather than the general good of the people of the State of Maine.

This bill is real simple, it's not drastic. It just increases that number of out of town diggers by 5 percent for the rest of this year, and seeing this is not an emergency bill, that comes down to a grand total of four months before the department is required to present a study to the Marine Resources Committee to deal with this issue.

We have got a problem where people cannot make a living, where people who used to depend on the clam industry for their livelihoods, have been forced out of it. They either can't get access to the resource or they don't have enough money to buy all the licenses in order to harvest the resource.

The bill addresses another very important issue, it's called reciprocal agreements between municipalities. Let me explain something that we found in this process that we were totally unaware of. There was one group of three towns that had a reciprocal agreement. The way that reciprocal agreement was written was that, any person who held a license in one of those three towns, was eligible to get a license in all of those three towns — which is fine, I have no argument with that. When they issued their out of town licenses, however, they based that 10 percent based on the number of individual licenses each town issued. That is a little confusing, let me explain it. You've got three towns, each one has 100 licenses, but each one accepts the other town's 100 licenses, so you've got three towns with 300 licenses in them and 300 individuals that can dig, and if we're going by the 10 percent rule, then each town should have 30 out of town diggers. Well the way they were defining it is, each town accepts the reciprocal agreement, that's 300 diggers in each town, but they are only issuing out of town licenses based on the 100 that that town issues, so that 10 percent became three and one third percent.

What's going on is that some towns are using these laws as a protectionist measure in an attempt to reserve a resource that's held for the general good of the people of the state to hold that resource for the general good of the people of the town. That's not right.

I agree that this bill is not the thing to address it with, that the coming study bill from the Department of Marine Resources is what that should be addressed with, but this can certainly alleviate the issue in an interim until the committee and the department properly address the issue.

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: To pass this bill would be changing the rules in the middle of the game. There are 42 communities in Maine who have State of Maine shellfish ordinances. They are the ones affected by this change. The 42 communities who have dedicated conservation programs, towns who budget town property tax dollars to preserve and conserve their clam flats, towns that scientifically rotate their clam flats, towns that practice reseeding, towns that hire clam wardens to work with the diggers to preserve the very limited natural resource — these towns have not been given an opportunity to evaluate this legislation and this is not fair.

Finally, the clam bill was sunsetted to 1988 as two of the speakers have already told you. It will be restudied and reviewed then. I say, in fair play to the 42 towns who have practiced conservation, let's wait for the report of the marine resource biologists to submit next year, and then make a fair judgment, and then these towns will have a voice in making this new law.

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 Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I, too, urge you to support the Majority "Ought Not to Pass" Report.

What has happened here is the clam flats are facing a need to be resurveyed, and as you have already been told, in another year, the committee will address the issue of the sunset of the present law.

In the process of resurveying these flats, it will be determined what the amount of the harvestable clams are in each individual town. Now each town has to do this themselves. It is upon the basis of this survey that the Department of Marine Resources decides how many licenses are going to be sold in each town. Now that is resident and non-resident. It's based on the survey results, therefore, I urge you to give time for this law to sunset and the survey to be completed.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Men and Women of the House: I think perhaps it is time to define what is, in fact, a non-resident and a resident. If I was in Gouldsboro and that was my residence, I wanted to dig in Jonesport, I would be a non-resident. If I want to dig there, I would have to pay a fee for digging there. The fee that I pay as a non-resident of that community goes into the property tax or the taxes of that community where I want to dig. So, let's not limit ourselves on a thought process that the people who are doing the conservation efforts are spending town money, they are also spending the money that I am going to spend on my license to go in that community and dig.

I think what this Minority Report does, in fact, open up Maine clam flats for Maine people, pure and simple.

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

Representative ALLEN: Mr. Speaker, Men and Women of the House: I rise today to urge you to support the "Ought to Pass" Report and do so in defense of all the so-called non-residents that have been spoken about today. As many of you know, the communities that I represent border coastal towns and, therefore, all of the people that I represent, that in fact make their living by clam digging or I should say try to make their living by clam digging, are considered non-residents. First of all, they are charged a fee ten times what a resident of a coastal community might pay or are limited up to \$150. The issue we are discussing today is not the two-inch clam law and whether or not that is a proper conservation measure. In fact, the department is going to study that. What we are talking today is protectionism, protection of those people with the coastal ordinances who, in fact, allow only 10 percent of our constituents, who don't live in those towns, to clam there.

I would urge the House to support the "Ought to Pass" Report.

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

Representative WARREN: Mr. Speaker, one brief question for any of the members of the committee.

I had a bill in on the two-inch clam law this year that would have exempted retailers. It was a

much more moderate version of this bill. I withdrew it at the request of the Department of Marine Resources because they said they were going to be studying this whole controversial two-inch clam law. Do they still plan to study it? That is the question.

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

The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: Representative Warren, the department has indicated to the committee that they are going to undertake a biological and economical sort of analysis of the two-inch clam law and will report back to the committee next winter.

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

ROLL CALL NO. 60

YEA - Allen, Begley, Boutillier, Carroll, Carter, Cashman, Conley, Diamond, Dore, Gurney, Handy, Jackson, Jacques, Kilkelly, Mahany, McHenry, Michaud, Mills, Mitchell, Nutting, Ruhlin, Scarpino, Thistle.

NAY - Aliberti, Anderson, Armstrong, Bailey, Baker, Bickford, Bost, Bott, Bragg, Brown, Callahan, Clark, H.; Clark, M.; Coles, Cote, Crowley, Curran, Davis, Dexter, Erwin, P.; Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Harper, Hepburn, Hichborn, Hickey, Higgins, Hoglund, Holloway, Holt, Hussey, Ingraham, Jalbert, Ketover, Lacroix, LaPointe, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Macomber, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McGowan, McPherson, McSweeney, Melendy, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. R.; Nicholson, Norton, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Perry, Pines, Pouliot, Priest, Racine, Rand, Reed, Reeves, Rice, Ridley, Rolde, Rotondi, Rydell, Salsbury, Seavey, Sheltra, Sherburne, Small, Smith, Soucy, Stanley, Stevens, A.; Stevenson, Strout, B.; Swazey, Telow, Tracy, Tupper, Vose, Walker, Warren, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

ABSENT - Anthony, Chonko, Dellert, Duffy, Dutremble, L.; Gwadosky, Hale, Hanley, Hillock, Joseph, Kimball, Nadeau, G. G.; O'Gara, Richard, Simpson, Stevens, P.; Strout, D.; Tamaro, Tardy, Taylor, The Speaker.

Yes, 23; No, 105; Absent, 21; Vacant, 2; Paired, 0; Excused, 0.

23 having voted in the affirmative and 105 in the negative with 21 being absent and 2 vacant, the motion did not prevail.

Subsequently the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 657) (L.D. 890) Bill "An Act to Require the Use of Seat Belts in Driver Education Programs" Committee on Transportation reporting "Ought to Pass"

(H.P. 806) (L.D. 1080) Bill "An Act Concerning Interstate or Intrastate Operating Permits" Committee on Transportation reporting "Ought to Pass"

(H.P. 792) (L.D. 1064) Bill "An Act to Require Candidates Requesting Ballot Inspection to Pay for this Service" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-147)

(H.P. 257) (L.D. 340) Bill "An Act to Amend the Law to Allow Security Officers to be on Duty for Dances at Which Minors are Admitted" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-148)

(H.P. 626) (L.D. 849) Bill "An Act to Limit the Penalty a Landlord can Charge a Tenant for Late Payment of Rent" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-149)

(H.P. 517) (L.D. 690) Bill "An Act to Require that Candidates' Petitions be Sworn" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-150)

(H.P. 915) (L.D. 1227) Bill "An Act to Create a Statewide Reservation System for State Parks that have Overnight Camping Facilities" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-146)

(H.P. 1120) (L.D. 1523) Bill "An Act to Amend the Law Concerning Appeals by Parties Aggrieved by Acts of the Superintendent of Insurance" Committee on Banking and Insurance reporting "Ought to Pass"

(H.P. 1119) (L.D. 1522) Bill "An Act Relating to Assignment of Group Health Insurance Benefits" Committee on Banking and Insurance reporting "Ought to Pass"

(H.P. 1097) (L.D. 1488) Bill "An Act to Update References to Immunities of State Military Forces under the State Tort Claims Act" Committee on Judiciary reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, May 20, 1987, under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(S.P. 325) (L.D. 953) Bill "An Act to Provide Increased Penalties for Door-to-door Fraud"

(S.P. 202) (L.D. 559) Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Inland Fisheries and Wildlife Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1988 and June 30, 1989" (Emergency)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed to be Engrossed in concurrence.

PASSED TO BE ENGROSSED

Bill "An Act to Establish a Statewide Training Program for Staff of Long-term Care Facilities" (S.P. 536) (L.D. 1619)

Bill "An Act Pertaining to the Placing of Bear Bait" (H.P. 1189) (L.D. 1620)

Bill "An Act to Provide Assistance to Victims of Natural Disasters" (Emergency) (H.P. 1197) (L.D. 1631)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate Paper was Passed to be Engrossed in concurrence and

the House Papers were Passed to be Engrossed and sent up for concurrence.

Reference is made to Joint Order (S.P. 504) relative to Recalling Bill "An Act to Clarify the Description of Crooked River in Cumberland County and to Extend Special Protection to Outstanding Rivers to the Crooked River" (S.P. 38) (L.D. 26) from the Legislative Files to the Senate.

In reference to the action of the House on May 19, whereby it Insisted and Asked for a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

- Representative MICHAUD of East Millinocket
- Representative COLES of Harpswell
- Representative DEXTER of Kingfield

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

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative MANNING from the Committee on Human Resources on Bill "An Act to Require that Children Under the Custody of the Department of Human Services be Placed in Homes with Traditional Family Settings" (H.P. 846) (L.D. 1137) reporting "Ought Not to Pass"

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Reinstate Capital Punishment in Certain Murder Cases" (H.P. 924) (L.D. 1236) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative THISTLE from the Committee on Judiciary on Bill "An Act Concerning the Use of Force in Property Offenses" (H.P. 615) (L.D. 833) reporting "Leave to Withdraw"

Representative PRIEST from the Committee on Legal Affairs on Bill "An Act to Prevent Candidates for Office from Handling or Soliciting Absentee Ballots" (H.P. 1027) (L.D. 1385) reporting "Leave to Withdraw"

Representative BRAGG from the Committee on Agriculture on Bill "An Act to Require that the State Bear the Cost of Fencing Orchards which are Damaged by Moose or Deer" (H.P. 326) (L.D. 425) reporting "Leave to Withdraw"

Representative SALSBURY from the Committee on Marine Resources on Bill "An Act to Amend the Law Prohibiting Scallop and Dragging in the Frenchboro Area" (H.P. 1025) (L.D. 1383) reporting "Leave to Withdraw"

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

The Chair laid before the House the following matter: Bill "An Act to Require that Loads of Gravel, Sand, Crushed Stone, Wood Chips, Building Debris or Rubbish be Secure to Prevent Spillage" (H.P. 799) (L.D. 1073) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

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

The Chair laid before the House the following matter: Bill "An Act Relating to Agricultural Internship and Training" (H.P. 446) (L.D. 599) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Representative Brown of Gorham offered House Amendment "A" (H-145) and moved its adoption.

House Amendment "A" (H-145) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-145) and sent up for concurrence.

The Chair laid before the House the following matter: RESOLVE, to Authorize the Commissioner of Mental Health and Mental Retardation to Continue to Employ Charles E. Meredith, M.D., as Superintendent of the Bangor Mental Health Institute (Emergency) (S.P. 510) (L.D. 1534) which was tabled earlier in the day and later today assigned pending final passage.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 115 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker, and sent to the Senate.

(Off Record Remarks)

On motion of Representative Aliberti of Lewiston, Adjourned until Wednesday, May 20, 1987, at nine o'clock in the morning.