

# MAINE STATE LEGISLATURE

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

**VOLUME II**

**FIRST REGULAR SESSION**

May 26, 1987 to June 30, 1987

Index

done. Representative Attean would like to meet with each and everyone of you to thank you personally, as you leave the Chamber this afternoon, to tell you how much excitement that has caused at home. She left the Chamber, a few minutes ago, to call the police on the island to tell the people.

Senator MATTHEWS of Kennebec was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator THERIAULT of Aroostook, ADJOURNED until Thursday, May 28, 1987, at 9:00 in the morning.

**ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE  
FIRST REGULAR SESSION  
76th Legislative Day  
Thursday, May 28, 1987**

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

Prayer by Reverend Carolyn Hofacker, First Congregational Church, Kittery Point.

The Journal of Wednesday, May 27, 1987, was read and approved.

Quorum call was held.

SENATE PAPERS

Unanimous Leave to Withdraw

Report of the Committee on Utilities reporting "Leave to Withdraw" on Bill "An Act Relating to Electric Rate Design for Residential, Commercial and Industrial Classes" (S.P. 394) (L.D. 1213)

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act to Clarify Municipal Liability for Certain Vehicular Accidents" (S.P. 141) (L.D. 395)

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

Non-Concurrent Matter

Bill "An Act to Hold Employees of Licensees Criminally Liable for Knowingly Selling Liquor to Minors" (H.P. 1224) (L.D. 1669) which was passed to be engrossed in the House on May 26, 1987.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-96) in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

An Act to Exempt Liquid Asphalt from the Ground Water Oil Clean-up Fee (H.P. 1173) (L.D. 1599) which was passed to be enacted in the House on May 27, 1987.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-93) in non-concurrence.

The House voted to recede and concur.

REPORTS OF COMMITTEES

Ought to Pass in New Draft

Representative MICHAUD from the Committee on Energy and Natural Resources on Bill "An Act to Clarify the Site Location Law" (H.P. 188) (L.D. 232) reporting "Ought to Pass" in New Draft (H.P. 1231) (L.D. 1681)

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/New Title

Representative RIDLEY from the Committee on Energy and Natural Resources on Bill "An Act Relating to Owners and Operators of Biomass Burners" (H.P. 790) (L.D. 1062) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Ensure Sound Forest Management of Biomass Fuel Wood Harvesting Operations" (H.P. 1230) (L.D. 1680)

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/New Title

Representative BAKER from the Committee on Utilities on RESOLVE, Creating a Commission to Study the Allocation of Water Supply Rights Among Water Utilities and Others (Emergency) (H.P. 899) (L.D. 1200) reporting "Ought to Pass" in New Draft under New Title RESOLVE, for the Public Utilities Commission to Study the Allocation of Water Supply Rights (Emergency) (H.P. 1229) (L.D. 1678)

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/New Title

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Expand Pregnancy Related Services" (H.P. 600) (L.D. 818) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Appropriate Funds for New and Existing Services Relating to Teen Pregnancy" (H.P. 1232) (L.D. 1682)

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/New Title

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide for a Director of School Bus Safety and Bus Driver Training" (H.P. 565) (L.D. 763) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Establish a School Bus Safety and Driver Training Program" (H.P. 1233) (L.D. 1683)

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 Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (H-183) on Bill "An Act to Encourage Investment in the Development of Potato Varieties" (H.P. 678) (L.D. 911)

Signed:

- Representatives: MAHANY of Easton  
 HUSSEY of Milo  
 SHERBURNE of Dexter  
 NUTTING of Leeds  
 ALIBERTI of Lewiston  
 PINES of Limestone  
 BRAGG of Sidney  
 WHITCOMB of Waldo

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-184) on same Bill.

Signed:

- Senators: MATTHEWS of Kennebec  
 TWITCHELL of Oxford  
 BLACK of Cumberland
- Representatives: TARDY of Palmyra  
 PARENT of Benton

Reports were read.

Representative Tardy of Palmyra moved that the House accept the Minority "Ought to Pass" Report as amended by Committee Amendment "B."

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Men and Women of the House: I hope that you will defeat Representative Tardy's motion so that we can speak to Committee Amendment "A," which has the support of the

potato industry as a whole, and which represents the Majority Report.

Committee Amendment "B" does not have the support of the potato industry. The Maine Potato Board does not support Committee Amendment "B." This board is unanimously opposed to Committee Amendment "B." The Seed Assembly of the Potato Board organization is unanimously opposed to Committee Amendment "B." The Maine Seed Potato Board is unanimously opposed to Committee Amendment "B." The fact that all of these are opposed should not be taken lightly.

The potato board itself was mandated by the 112th Legislature to replace several potato organizations in the state in order to unify and to give the industry direction. You might ask why the potato board and the Maine Seed Potato Board are opposed to this Committee Amendment "B" and to the Minority Report. They are opposed to Committee Amendment "B" because of certain varieties, two to be specific, FL1207 and F1945 and Committee Amendment "B" rejects the right of the developer or breeder of those varieties to control who shall have the right to propagate those varieties. Rather, this principle of the right to propagation by the developer, or control over by the developer, is compromised by Committee Amendment "B" for the sake of a handful of farmers who have chosen to ignore it -- three seed growers out of a total of between 370 and 380 seed growers in the state for example.

This policy of this handful of farmers is in direct contrast to the standing practice and policy of the Maine Seed Potato Board, which oversees the Maine Seed Farm, and which has consistently chosen not to use these varieties. Moreover, the majority of growers have chosen to respect and observe the right of developers to control who shall have the right to propagate any of their non-released varieties.

Committee Amendment "B", ladies and gentlemen, addresses the needs of only a handful of growers and it addresses those needs in a most extreme way, that is, by completing throwing two very valuable varieties of a private developer up for grabs, thus exempting them from the intended scope of this bill. We think that is an extreme step. The potato board thinks that is an extreme step and the Maine Seed Potato Board thinks that is too extreme a step.

Therefore, we hope you will defeat Representative Tardy's motion so that we can look more closely at the Majority "Ought to Pass" Report and Committee Amendment "A," which also addresses the needs of that handful of farmers, but in a much less extreme way and in a way that does not undermine the developers control over the propagation of their non-released varieties.

I would also like, at this time, to call your attention to a statement which I hope has been distributed to you by now, given to us by the Maine Potato Board, backing up everything I have said so far and signed by the president of that board, Richard Kneeland. It also points out in the last two paragraphs how important it is for us to retain in this state the developer of the two varieties I have referred to, namely, Frito-Lay, and I am sure you have all heard of the company Frito-Lay by now.

For example, in 1986, their contracts in this state amounted to \$5.5 million in business, and if there is one thing that potato growers need in the State of Maine, it is responsible companies who can contract potatoes with farmers because contracted potatoes are the most secure and stable source of income for farmers and they also provide a market for those farmers. Frito-Lay has consistently increased its acreage or contracts in this state with the

exception of last year, due to the bad yield for one thing, and there is every reason to believe that they will increase their contracts in the future, if we treat them fairly.

The SPEAKER: The Chair recognizes the Representative from Benton, Representative Parent.

Representative PARENT: Mr. Speaker, Members of the House: L.D. 911 affects three different economic groups within the chipping industry throughout the State of Maine. The growers of potatoes, specifically chipping potatoes, and those who grow seed chipping potatoes, are affected. The developers of new varieties such as Frito-Lay, a big, national processor of potato chips contracting in Maine, but also doing research and development of new varieties are concerned.

And third, Humpty-Dumpty, Maine's only maker of potato chips are also affected. Basically, and without going into a lot of complex details, the Minority Report does a number of things in regards to all of these three groups. It guarantees to the developers of new varieties, exclusive proprietary rights, complete control over all of their new varieties in the future, and at the same time, that will encourage the growth of these varieties in Maine, by Maine growers. I think this is a big, big step forward. Not even the federal government has ever granted a patent on a potato, no other state has gone this far in the protection of new varieties.

This is not the controversial part of this bill. The controversy centers on an existing variety, a potato chipping variety, the 945. Frito-Lay, willingly or not (it's hard to tell) allowed the 945 to be sold on the open market quite a few years ago. It became available to a variety of growers all over the State of Maine. Today, it is legally, easily, and I might add ethically, available. Humpty-Dumpty has been using the 945 in its processing plant in Scarborough for about five years. This variety is extremely important to Humpty-Dumpty. Here is the problem. The Minority Report does not restore to Frito-Lay the control over the 945. It does not do so for two very good reasons, the first one being that the 945 has been available on the open market for such a long period of time, that Frito-Lay's claim to this potato is questionable or it is completely void.

Second and most important, and I repeat, most important -- if we give Frito-Lay complete control of this potato, we are shutting off Humpty-Dumpty's future supply. Humpty-Dumpty needs this variety. It is important to them.

If I may quickly summarize, the Minority Report guarantees to all the developers of future new varieties, exclusive proprietary rights and that will encourage the growth of these varieties in Maine by Maine growers, but at the same time, it assures Humpty-Dumpty a continued, needed future supply of 945's, a supply which I think is essential to their continued successful operation here in Maine.

Ladies and Gentlemen of the House, all I ask is that before you vote, you give this some serious thought, serious thought to the effect of your vote on this and to try to find it in your heart to support Representative Tardy's motion which is presently before us.

The SPEAKER: The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, Men and Women of the House: Now for the rest of the story. A lot has been said about the issue of proprietary rights and the variety at issue here is F1945. This particular potato has been certified in Maine since 1977. At one point, Frito-Lay nearly dropped it from

its breeding program. However farmers, both Frito growers and non-Frito growers alike, saw potential and continued to propagate the variety. They experimented with fertilizer levels, seed spacings, planting and harvesting dates. Some of these fertilizer trials, for example, were undertaken by the University of Maine at the test wards at Nacomus Regional High School in Newport. I know because, for several summers, I was the plant technician that planted, cultivated, sprayed, and top killed those varieties and I know what varieties they were. The result was a potato that could be put into storage and would make a potato chip during the months of March, April and May when other available varieties would not. During the hearing, we heard testimony from several small, family-operated chip processors that in the last ten years have come to depend upon this variety in late winter and early spring. Combined, these processors buy nearly 200,000 hundred weight more from Maine farmers than does Frito-Lay. There is only one chip processor left in Maine and that is the Humpty-Dumpty plant in Scarborough.

Phil Cole, the president of that company, has stated emphatically and sometimes even in desperation that this bill, without Committee Amendment "B," would put his company at a competitive disadvantage, would definitely jeopardize his company's very survival, and the 120 jobs and \$4 million plus payroll that goes along with it. The other report merely points a gun and pulls the trigger two years from now.

The other companies that buy from Maine are located in Massachusetts and Connecticut and have told us that, if they cannot be assured of a good quality chipping potato from Maine, they will look to other states for these varieties and they will secure them. Humpty-Dumpty's trucking cost would make this prohibitive for our own Maine company. In ten years, Frito-Lay, a division of Pepsi-Cola, located in far away Dallas, Texas, took absolutely no action to assert its so-called proprietary rights as these potatoes were bought and sold freely in the marketplace. Why? If you build a fence on my lawn tonight, you are going to know about it tomorrow morning, if I wait that long. I am not going to wait ten years to let you know.

Again I ask the question -- why now after ten years? Is it because perhaps the cultural practices, the experiments in raising these potatoes, is it more to ensure their quality than perhaps appearance of this particular little tuber?

If this is truly an industry bill and not a Frito-Lay bill, then the Minority Report does just what the Statement of Fact intended it to do. It protects all new varieties brought into Maine. It gives them a five year period in which to secure protection from federal plant patents. It does not put several southern and central Maine farmers out of business nor does it jeopardize the livelihoods of those who work for Maine's only potato processor. I urge you to support the pending motion.

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

Representative WHITCOMB: Mr. Speaker, first of all, I would like to request a roll call.

Mr. Speaker, Members of the House: This is, as you can gather, even though you may not be personally involved with the issue, an emotional and very important issue for the potato industry. You have just heard some comments by a couple of speakers that indicate that the so-called potato varieties in question have been free and on the open market for ten years.

I would like to quote from state records that indicate, that in 1977, ten years ago, there were only three acres of this particular variety raised in the State of Maine. In 1978, there were fifteen acres. In 1979, there were thirty acres. This, to me, doesn't sound like a quantity of potatoes that was available for wide distribution and public use. We are hearing, I believe, a little bit of distortion of the facts.

I would like, rather than to get into the technical aspects of this bill, and we have debated this long and hard as a committee, and you can see that the committee cannot agree, to just discuss with you a little bit of the importance and to bring out what I think are the overriding concerns.

The overriding concerns in my mind is the fact that the majority, the vast majority of the potato farmers in the State of Maine, feel that this original piece of legislation was very important for the integrity of the future. The majority of the potato farmers in the State of Maine and those involved with the industry wanted the original piece of legislation. However, as a result of testimony presented at the hearing both by farmers and by the Humpty-Dumpty Company that would be affected by this bill, (and no one desires that) the majority of the committee chose to go with Committee Amendment "A," the Mahany amendment. You and I know how the majority compromises are crafted in this place. If no one is happy, you come to some reasonable conclusion. I think I can forcefully state, that in Committee Amendment "A," the amendment supported by eight members in this body, no one is happy. It is not the original bill as I and most of the other committee members would like to have seen, it's not the original bill the potato industry would like to have seen, it certainly doesn't satisfy all the demands of Mr. Cole and Humpty-Dumpty or the few potato farmers that are concerned. But it is a compromise. It is a compromise that is important to the integrity of the potato industry in this state.

I only would conclude, in suggesting that you look at the two letters that have arrived on your desk from the Maine Potato Board, a board created by the legislature, elected by the farmers to reach decisions good for the majority of the industry, they are very much in support of Committee Amendment "A" that is the result of the committee's work.

The other letter is from the Aroostook County Farm Corps, which is a group that is very much involved in trying to assist the small farmers to survive in the St. John Valley.

So, I would urge you to vote against the pending motion, vote against the Minority Report, and follow the lead of the majority of the committee and the delegation from Aroostook County.

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

Representative PARADIS: Mr. Speaker, Men and Women of the House: I ask you to vote against the motion to accept the Minority Report so that we can then accept the Majority Report. As you have seen, the letter from the Family Farm Corps in front of you, and it really reflects the sentiment of the people in northern Maine, the farmers want the amendment to L.D. 911 supported by Representative Mahany. Many people in Maine and people in this legislature have worked and continue to work to improve the potato industry in Maine. The Majority Report on L.D. 911 is a step towards this goal.

There are those who suggest passage of the Majority Report will have a serious impact on people in southern Maine. If that were true, I would really

be concerned. The truth is that this is a farmers bill and that Humpty-Dumpty will have plenty of potatoes at economical prices after the Majority Report is passed. I urge you to vote no to accept the Minority Report.

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

Representative KIMBALL: Mr. Speaker, Men and Women of the House: I, too, would like to address this issue this morning. In thinking about what I wanted to say about it, I think it boils down to an issue of fairness. I want to assure the Representative from Aroostook, Representative Paradis, that I think that people in southern Maine will be hurt by the passage of this legislation without Committee Amendment "A." The problem is one of -- how long these potatoes have been released to the open market.

In thinking about what Representative Tardy has proposed here, we are talking about varieties that have been on the market since 1977, that have been used by the potato industry in this state, and in particular Humpty-Dumpty, that have been used by farmers who grow for Humpty-Dumpty. It astounds me that we could, at this point in history of this species, declare a prohibition on it in favor of Frito-Lay.

I understand the concerns in Aroostook County and of the farmers regarding the way the prohibition would work in terms of allowing only certain farmers to grow, those farmers that raise potatoes for Frito-Lay. Frito-Lay is a major contractor in this state, but can we do that at the sacrifice of the chipping industry in the State of Maine, and those farmers that have been growing the 945's during the ten years?

I think a compromise can be reached, ladies and gentlemen of the House, and I think that the compromise that should be reached is to allow those species that are developed after this bill is passed, the proprietary right. But as for the one's that came before that that were used by the potato industry in the State of Maine, I say that they belong on the open market where they have been since 1977. I urge you to support the Tardy amendment.

The SPEAKER: The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, Men and Women of the House: I, too, have trouble understanding Aroostook County but I don't think that is unique. I do think that with either report, they have shot themselves in the foot. I don't think they realize how many varieties were developed in Canada by McCain's that have not met the criteria as a published variety and, therefore, are non-released and could be called back under this bill by McCain's. There is no question in my mind that L.D. 911, with either report, is probably bad legislation. It puts the State of Maine in the patent office business. But the potato board in Aroostook County says that is good -- never mind that its sole purpose is to give Frito-Lay back control, that it could not or would not get back in a court of law.

The only processor to testify at the hearing in favor of this bill was Frito-Lay, all the way from Dallas, Texas. The potato board in Aroostook County says, that's good. We enacted, and the governor signed into law, a bill granting binding arbitration to farmers because Aroostook County said, that's good, that this would be a tool to enable the poor down-trodden farmer to rise up and do battle with a monolithic giant from far, far away because industry leaders said, that's good. These same leaders now

say that this bill that endangers the survival of Maine's only chip processor to the benefit of a Dallas, Texas company -- that's good.

Let me explain something about this mysterious potato board of eleven members. When you subtract the two processors, when you subtract the three dealers, that leaves you with some farmers that about 50 percent of them probably have Frito-Lay contracts. That is a lot of leverage in an industry where the company buys 1.49 percent of all the potatoes produced in the whole State of Maine. That's good? I call it poor judgment.

I urge you to support the motion for Committee Amendment "B."

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: This company developed a seed, a seed which they contracted within the state. I have growers in my area that are growing for this company. One young fellow told me that if they didn't have control and if he didn't get his contract back, then he would probably be done raising potatoes. As you all know, the potato business has not been that good until this year. These contracts are what has kept many of them in business.

I heard the word fairness and what is fairness? If this company developed this seed, should they have the control over it? We have a state seed farm that can't seem to come up with a variety as good as this one. I am wondering, where have they been on this? I just feel in fairness, this company should have some control over the seed that they developed.

I am wondering how many farmers that are growing this, that are not under contract, have asked for a contract with Frito-Lay. Have they ever asked? Also I wonder how many potatoes that Humpty-Dumpty needs or how much do they depend on this seed or this variety? How many months of the year do they really need it?

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Men and Women of the House: I certainly would not sponsor legislation if I thought it was going to seriously endanger a Maine business, nor would I sponsor legislation if I thought it was going to seriously endanger the workplace of 100 or 150 workers or however many it is that Humpty-Dumpty has.

I think my record ought to convince you of that. I certainly am not one that has a reputation of being soft on big companies or a person who can be the puppet of a big company. I am sponsoring this bill because the potato industry of Maine wants it. That potato industry of Maine is represented in the Maine Potato Board, which was mandated by this legislature or its predecessor, and which is split up into seven districts around the state with each district electing, democratically, members to five or three different executive councils so far as the growers are concerned. They are elected in a very democratic fashion, ladies and gentlemen. You couldn't be more democratic, and people have put a lot of time and effort into structuring the potato board organization, so that it would be democratic, so that it would represent the entire State of Maine, and so that it could speak for the potato industry of the entire State of Maine, which is precisely what it does. It is the only vehicle that we have that can speak for the potato industry of the entire State of Maine -- and fair to whom ladies and gentlemen? Fair to a responsible developer of a variety which can be contracted by potato growers in the State of Maine

and provide them with a market for their potatoes in their own processing plants which are outside of the State of Maine. Fair to whom? To those growers who chose to respect the propagation rights of this developer of these non-released varieties, fair to those growers who conform to the business ethics of this society, really, in respecting the right of the developer to control who shall propagate that variety? They did it voluntarily.

There is an element of the integrity of the people we are dealing with. But however you evaluate the situation, the fact remains that the majority of growers in this state -- and they are not all in Aroostook County ladies and gentlemen -- the majority of these growers have chosen to honor their contracts with Frito-Lay, which are normal contracts, and which so far as this variety F1945 is concerned, has been strictly followed by Frito-Lay.

I would like to read to you what it says in this contract, very straightforwardly, "It is understood that potatoes produced from the above seed cannot be sold or disposed of without the expressed permission by Frito-Lay Inc." So, if we are speaking of fairness, ladies and gentlemen, I think we should be more concerned about fairness towards the entire industry, towards those growers who have chosen to honor the propagation rights and the control thereof, of the developer of a variety of potato and fairness to a company which has done business in this state for 20 years and generally has a very good reputation.

Frito-Lay hasn't done anything wrong here and it is offering for the future of the Maine potato industry some real hope in increasing its number of contracts. Yes, especially in an area that really needs it, namely Aroostook County, but not only Aroostook County.

The issue of fairness should be, I think, what is good for the vast majority here and not for a handful of growers, three seed growers, who have chosen not to respect or to abide by -- whatever word you want to use -- a business ethic. I seriously fear, ladies and gentlemen, since we have other states out there who are real competitors of ours and who are coming on strong and who would just love to have Frito-Lay leave this state and go there -- for example the State of Michigan -- I fear if we treat Frito-Lay unfairly that they may choose to do that and we will all be the losers here and not just potato growers in Aroostook County but perhaps especially many of those in Central Maine who as a matter of fact have been growing Frito-Lay varieties much longer.

Humpty-Dumpty is not in danger. I just do not understand that argument because there are so many varieties available.

In answer to Representative Smith's question, next year the Maine Seed Farm in Masardis is coming out or releasing a variety of potato which is very good for chipping. There are many varieties of potatoes that are good for chipping that Humpty-Dumpty growers have access to. Moreover, some leniency has been shown to Humpty-Dumpty's growers in Committee Amendment "A" if we ever get to discuss it, which I hope we will.

So, ladies and gentlemen, I hope that you will follow the lead of the potato board, which represents the entire industry in this state and which is giving us some direction, unanimous direction here, and vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Benton, Representative Parent.

Representative PARENT: Mr. Speaker and Members of the House: One point that I would like to make that I think hasn't been made that has concerned me about this issue ever since we got it four or five

years ago is that we are being asked by Frito-Lay to settle a dispute which I think ought to be better settled in court. If Frito-Lay has got an actionable case against anybody out there, then they ought to take the case to court and get satisfaction. That is one of the things that has bothered me about this ever since we got it.

The Minority Report does not get involved in settling a dispute, it leaves the disputed variety alone. It concerns itself with protecting future varieties only. I think that the case of the 945 ought to be better settled in court and that is where it should be settled.

The SPEAKER: The Chair recognizes the Representative from Dexter, Representative Sherburne.

Representative SHERBURNE: Mr. Speaker, Ladies and Gentlemen of the House: We have heard a lot about fairness and I feel that that fairness is being interpreted from the wrong side. Frito-Lay spends \$2 to \$3 million a year developing new varieties. The State of Maine, in my opinion, is very fortunate that they will allow those varieties into our state for our potato industry.

We heard that some of these varieties have been available since 1977. Well, if they brought a variety into the State of Maine in 1977, it was just a few hundredweight and it took five years before that variety was available to the general people in the industry. So, that would bring it up to 1982. Maybe it has been available to a lot of growers since 1982. Frito-Lay needs a big supply of potatoes, 600,000 hundredweight. If they had started in 1977, it would have been 1982 before that amount of potatoes would have been available.

The processor in southern Maine, and I asked this question in hearing -- "How many growers do you have?" He said, "One." One grower supplies that industry, growing about 500 acres. Right in my area in central Maine, we have several growers that grow 450 acres. Frito-Lay has about 40 plus growers to supply what they need in Maine and they would like to increase that by at least 50 percent.

When we say that these problems should have been settled in court, possibly they could have been, but Frito-Lay has potato seed growers in several states and Maine is the only state where they haven't been able to trust the growers to fill the contract as it was signed.

We heard Miss Mahany read some of the contract. When a seed grower contracted with Frito-Lay, they were supposed to turn the crop back to Frito-Lay so that Frito-Lay could have control of it. In some cases, the grower set aside part of that crop and went to raising seed with his own seed which he had not exactly filled the contract with.

Frito-Lay has agreed that they would allow this 945 variety, which is their best variety, (the one that most people seem to want) and they have released that variety for a two year period. That would allow those who are using it, maybe not illegally but without Frito-Lay's consent, to at least get other varieties.

Humpty-Dumpty was in business long before Frito-Lay was here. They had their varieties that they used and there were many, many varieties available that they could use if they didn't have the 945. This is, as Representative Mahany has said, an industry bill. The industry as a whole is in support of this, not as we are hearing it here today, but the original bill which would not have allowed 945's to have been open to the public, but they did compromise and say that they would release the 945 variety. I think this is a big compromise.

For many years we have said to the potato people who came in here asking for something and, at that time they were represented by several commissions and boards, if you could get your act together and agree on something, we might be able to help you. This is just what the industry has done. They have combined all their commissions and boards into one board, the Maine Potato Board, which represents the industry in Aroostook County and they have come down here and have told us what they need. I think that the legislature owes them. Now that they have gotten together, I think we owe them our support.

I would hope that you would vote to defeat the motion before us.

The SPEAKER: The Chair recognizes the Representative from Princeton, Representative Moholland.

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair. You know the old rhyme, "Humpty-Dumpty sets on the wall" -- we don't want Humpty-Dumpty to take a great fall.

My question to anybody that can answer it is, if we accept Amendment "A," can Humpty-Dumpty still have those potatoes and what price would they have to pay?

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

The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Members of the House: Although it is impossible to predict prices of potatoes, if I could do that, I assure you I wouldn't be a member of this body, I would be selling my services elsewhere. I would say that there are many varieties of potatoes available for chipping services. There are new varieties coming along. One in particular (that has just been mentioned) has been released by our experiment station by funds that you and I and the potato industry have contributed and has just undergone five years of extensive testing and looks to be very, very good for Maine processors. There are at least six other varieties that are available. Humpty-Dumpty does not now use only Frito-Lay varieties, they use a wide assortment of chipping potatoes. They used them before Frito-Lay even came on the scene.

So, although it is impossible for me to predict that Humpty-Dumpty will not fall, it is equally impossible and a little bit of crying wolf for Humpty-Dumpty to come to us and say they will fall. Of course it is not as convenient as it was before for them to have the ability to use someone else's potatoes, they were having the best of both worlds. They were not investing any funds in potato development and were utilizing the resources of another company who happened to be their competitor.

This is a messy task. We are correcting state policy that was lax in the past. It is not pleasant for anyone. Understand, in no other state did this happen. In no other state were Frito-Lay varieties used by other companies or grown by other growers for purposes other than Frito-Lay.

We all admit that it would have been a lot easier if the State of Maine and the Department of Agriculture had handled this before and handled this on their own but they didn't. Now we are in the situation of correcting lax state policy.

The other point that I wish to make is simply -- look at the numbers. Again it is in the vicinity of 400 seed potato farmers in the State of Maine, there are 12, you can give or take a few, but in the vicinity who have made immense profits by being able to use varieties that in other states were not



available to other growers and that the 400 chose not to use themselves. It is perfectly understandable how it happened, it is perfectly acceptable because there was no law to say no. However, you have to understand why now, when we are making state policy in the manner in which it should have been in the first place -- why the human cry?

I urge you to represent the vast majority of the industry to defeat the motion before us and support Committee Amendment "A."

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: Politically, I guess this is going to be a bad day for me. You look and see who is on the Minority Report, and I couldn't have any greater respect for our Committee Chairman, but I fulfill the role that you, I am sure, would have done in the same manner. I know there are many of you right now feel and felt the way I did the first time I heard the issue of the Frito-Lay bill. I didn't know whether 945 was a transport plane or one of the new types of weapons, I didn't know whether 611 was a missile. I listened, I questioned, and up until ten minutes before the final decision was made, I didn't know, honestly, which side I was going to vote for.

I think what convinced me was the attack on Frito-Lay. I think that convinced me and that comes from a new posture of mine. I was firmly convinced because 85 percent of these people in this industry chose to support the Frito-Lay position and be a part of their operation. That convinced me. It was 15 percent that chose not to support the Frito-Lay position and that 15 percent (I don't know exactly what percent of it) were using the 945 potato seed for ten years, gratis, with no kind of investment.

Another point, I was told that Frito-Lay invests \$1 million for each one of these seeds. I thought I was not going to stand here because politically it was unwise, but as your representative on an issue that I am sure many of you are confused about, I sat through that and was your representative, and today I ask you to support Committee Amendment "B" on the basis of the testimony I heard and for the welfare of the industry.

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

Representative NICHOLSON: Mr. Speaker and Members of the House: I have grown my share of potatoes but today I feel that we are getting a message, a message that we are one here in the State of Maine, one market, a group of specialists growing potatoes and we, as a state, taking advantage as we develop our fiber and food producing products. They come from our natural resources. Realizing this and being in the marketing field for almost 30 years, we in this body and throughout the State of Maine, are beginning to realize marketing. It is worldwide, it is national, we are included in New England. The people of the State of Maine are the centerpiece for developing our fiber and food products.

As we talk about potatoes right now, we are right down to the grassroots of the subject. I am happy to say I have a true feeling as we develop the economy of the State of Maine that we are beginning to think together and that we are one state in developing our product for market from Kittery to Fort Kent.

I agree with what Representative Whitcomb is bringing forth to us. I think his thoughts and those of others along with him in their thoughts, should be supported. After all, we have organized the Maine Potato Board. We organized these kinds of boards to have people for leadership, to keep us informed as to

what is for the best interests for all and for the market. We can continue to do these kinds of things and we are beginning to realize the importance of marketing products and with marketing products we have to continue and develop our products through research and development. Let's go with Representative Whitcomb.

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

Representative WARREN: Mr. Speaker, Men and Women of the House: I will be very brief because I know the debate is getting long and the hour is late.

Although Humpty-Dumpty is in my legislative district in Scarborough, I had told the executives of Humpty-Dumpty as of two days ago that I was undecided on the bill, I had not decided to support it. I have always tried to be very sympathetic to the economic concerns of Aroostook County in northern Maine. In this instance however, after receiving more information, it just seemed to me that this particular bill is sympathetic as its concerns and goals are. It just seems to go against so many things that this legislature stands for.

Over the years, this legislature has stood for the principle that you must act quickly to protect your rights if you are injured by a municipality, by a police cruiser, fire vehicle, whatever, this legislature has passed a law that says you must not only act but you also must act quickly. You must bring a notice of claim against a municipality immediately to let them know you are going to bring suit.

This legislature has provided heating assistance grants for low income people. But this legislature also says that those people must act quickly.

This legislature has provided energy grant money from the Department of Energy Resources but, once again, we tell citizens they must act quickly.

For instance, on the Big A Dam bill, this legislature, once again, stood for the principle that if you want to stop the Big A dam, you have a right to do so, but you must act in a timely fashion. The phrase used at that time to defeat proposals to stop the Big A was that you should not change rules in the middle of the game.

In this particular instance, the thing that really alarms me is that the lawyers for Frito-Lay in Dallas, Texas have waited, not six months, not one year, they have waited 10 years. Under federal law, they have certain rights to provide protection for this particular potato variety. Despite that fact, they have waited 10 years to do so. In the interim, a company in Maine has decided to use the variety, has produced it, has spent money on it, has invested in its technology, invested in equipment, hired employees and it has essentially built a major part of its business during a good part of the year on this particular variety. Now, this company comes in, not even at the eleventh hour, more at the eleven-fifty hour and says that it wants to take that right away from this company.

The reason why I have held back up until recently to oppose this bill is because I thought that such protection might be reasonable. The thing that concerns me, in addition to the waiting that has been done, is that I understand that this protection and this ban on using this variety would not apply to out of state producers, from whatever state, New York, New Jersey or wherever.

In conclusion, I would urge the members of this body to press the green light and go with Representative Tardy and the Minority Report because

I think that we should not reward people for sitting on their rights for ten years.

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

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: I ask you to vote against acceptance of the Minority Report. I support the Majority Report. I am a cosponsor of the original bill. I am on the Agriculture Committee. At the work sessions, I asked the opponents of the Majority Report some questions about their supply of potatoes, I didn't get answers to my questions.

You know 400 Maine seed potato growers make a living without resorting to this type of action. There are only a handful of farmers who have taken the low road in order to enrich themselves. The State of Maine cannot stop the growing of these potatoes altogether but we can stop the seal of approval of the State of Maine from being placed on these seed potatoes.

Many of you were at the University of Maine at Fort Kent when you heard a young industrious aggressive, good marketing grower, Ned Berce, speak to you about this Maine certified seed potato industry. It has increased production 30 to 50 percent in recent years. That seed potato industry needs to be protected. The Maine seed potato industry is on the rise, it is being recognized nationally, let's not allow something like this to spoil it for all those people. Acceptance of the Majority Report will restore integrity to the Maine seed potato industry.

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

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: I would like to apologize for the position that I stated earlier. I am very confused, I asked you to support, I think, the Minority Report while my intent was for you to support the Majority Report.

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.

Representative Whitcomb of Waldo was granted permission to address the House a third time.

Representative WHITCOMB: Mr. Speaker, Ladies and Gentlemen of the House: Just a quick comment, the Federal Plant Variety Protection Act specifically excludes tuber-bearing plants from being patented. The suggestion that there is a federal patent available for potatoes is not correct.

My final comment is that the seed potato industry, as was just mentioned by the previous speaker, is the real hope for our beleaguered potato industry. It really provides an opportunity and we are gaining a reputation nationally and internationally. If we cannot be trusted by companies who are willing to invest in Maine, we reduce that opportunity.

I urge you to vote no on the pending motion and to support the majority, the eight members of this body, on the Majority Report.

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

ROLL CALL NO. 79

YEA - Anthony, Bost, Cashman, Diamond, Duffy, Erwin, P.; Foss, Garland, Greenlaw, Gurney, Gwadosky, Hale, Hickey, Higgins, Jackson, Kimball, Macomber, McGowan, Moholland, Nadeau, G. R.; Parent, Racine, Rand, Rotondi, Ruhlin, Sheltra, Simpson, Small, Tammaro, Tardy, Tracy, Vose, Walker, Warren, Willey.

NAY - Aliberti, Allen, Anderson, Armstrong, Bailey, Baker, Begley, Bickford, Bott, Bragg, Brown, Callahan, Carroll, Carter, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Curran, Davis, Dellert, Dexter, Dore, Dutremble, L.; Farnum, Farren, Foster, Gould, R. A.; Handy, Hanley, Harper, Hepburn, Hichborn, Hogle, Holloway, Holt, Hussey, Ingraham, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Mahany, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McHenry, McPherson, McSweeney, Melendy, Michaud, Mills, Mitchell, Murphy, E.; Nadeau, G. G.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Perry, Pines, Pouliot, Priest, Reed, Reeves, Rice, Richard, Ridley, Rolde, Rydell, Salisbury, Scarpino, Seavey, Sherburne, Smith, Soucy, Stanley, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Strout, D.; Swazey, Taylor, Telow, Thistle, Tupper, Wentworth, Weymouth, Whitcomb, Zirkilton, The Speaker.

ABSENT - Boutilier, Hillock, Murphy, T.; Paul, Webster, M.

Yes, 35; No, 109; Absent, 5; Vacant, 2; Paired, 0; Excused, 0.

35 having voted in the affirmative and 109 in the negative with 5 being absent and 2 vacant, the motion to accept the Minority "Ought to Pass" did not prevail.

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

Committee Amendment "A" (H-183) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

CONSENT CALENDAR

First Day

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

(H.P. 1128) (L.D. 1538) Bill "An Act Allowing Restricted Disclosure of HTLV III Test Results within a Federally-mandated Military Testing Program" Committee on Human Resources reporting "Ought to Pass"

(H.P. 847) (L.D. 1138) Bill "An Act to Increase Educational Opportunity for Economically and Educationally Disadvantaged Residents" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-193)

(S.P. 351) (L.D. 1043) Bill "An Act to Ensure Accessibility to Mental Health Services for Deaf Persons" Committee on Human Resources reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar 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. 1093) (L.D. 1484) Bill "An Act to Amend the State Funding of Pollution Abatement Projects" (C. "A" H-186)

(H.P. 979) (L.D. 1326) Bill "An Act Concerning Mussel Harvesting" (C. "A" H-187)

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

(H.P. 1136) (L.D. 1546) Bill "An Act to Make Consistent the Federal Veterans' Reemployment Law" (C. "A" H-190)

On objection of Representative Brown of Gorham, was removed from Consent Calendar, Second Day.

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

Committee Amendment "A" (H-190) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

(H.P. 964) (L.D. 1293) Bill "An Act to Allow the Employment of Part-time Superintendents of Schools" (C. "A" H-191)

(H.P. 897) (L.D. 1198) Bill "An Act to Implement Project ASPIRE for High School Students in the State" (C. "A" H-192)

(S.P. 499) (L.D. 1516) Bill "An Act to Clarify the Laws Pertaining to Payment for Medical Services"

(S.P. 521) (L.D. 1573) Bill "An Act to Amend the Maine Juvenile Code"

(S.P. 81) (L.D. 167) Bill "An Act to Expedite the Processing of Environmental Permits" (C. "A" S-87)

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

(H.P. 504) (L.D. 677) Bill "An Act to Make Allocations for the Operating Expenditures of the Intergovernmental Telecommunications Fund of the Department of Administration for the Fiscal Years ending June 30, 1988, and June 30, 1989" (Emergency) (C. "A" H-185)

On objection of Representative Brown of Gorham, was removed from Consent Calendar Second Day.

The Committee Report was read and accepted, the bill read once.

Committee Amendment "A" (H-185) was read by the Clerk.

Representative Brown of Gorham offered House Amendment "A" (H-195) to Committee Amendment "A" (H-185) and moved its adoption.

House Amendment "A" (H-195) to Committee Amendment "A" (H-185) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted and the Bill assigned for second reading later in today's session.

PASSED TO BE ENGROSSED  
As Amended

Bill "An Act Relating to Radon Gas" (H.P. 714) (L.D. 965)

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

Representative Allen of Washington offered House Amendment "A" (H-198) and moved its adoption.

House Amendment "A" (H-198) was read by the Clerk and adopted.

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

PASSED TO BE ENACTED  
Emergency Measure

An Act to Clarify and Amend the Treatment of Overboard Effluent Discharges into the Waters of the State (H.P. 945) (L.D. 1268) (C. "A" H-156)

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

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

Representative RICE: Mr. Speaker, Ladies and Gentlemen of the House: I wish to read into the Record a copy of a letter that I received from the Town Manager in the town of Stonington. "Passage of L.D. 1268 would pose two serious problems for Stonington. First, it would stop most new development in downtown Stonington because all sewage in this area must be overboard due to a lack of soil for subsurface disposal.

Secondly, the Stonington Sanitary District's overboard discharge license expires in December. There is no way the town can construct a sewerage treatment system in that short time. According to the proposed legislation, if the sewage in the Stonington Sanitary District is not treated, we will not get relicensed. This means that nobody in the downtown area can put untreated sewage into the harbor legally after December. This will impose a severe hardship on Stonington." Signed by the Town Manager.

Mr. Speaker, I request permission to pose a question through the Chair to the Chairman of the Energy and Natural Resources Committee. My question is -- was it the committee's intent that the bill cover discharges from existing municipal sanitary districts?

The SPEAKER: Representative Rice of Stonington has posed a question through the Chair to the Chairman of the Energy and Natural Resources Committee who may respond if he so desires.

The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: To answer the question, the answer is no. There have been some concerns especially with the Washington County Delegation about this bill. I have talked with Representative Vose and he is willing to let the bill go through and, if there are any further concerns that might arise, he is willing to address them next year. But to answer her question, the answer is no.

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

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: There is also concern among the Hancock County Delegation and all of you who represent islands, I am sure, will share these same questions.

I would like to pose a question through the Chair if I may.

To the Chairman or anyone on the committee who may care to answer this question -- exactly how would this bill treat residences primarily on islands who have been grandfathered under existing law and have been discharging sewage directly into the water, how will this affect them and what will the time frame of that effect be?

The SPEAKER: Representative Zirnkilton of Mt. Desert has posed a question through the Chair to any member of the Energy and Natural Resources Committee who may respond if they so desire.

The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: To answer his question, if they currently have a discharge and there is no alternative for them, such as an underground sewer system, then they can continue to discharge if they currently have a license to do so.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and 10 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 the Postgraduate Residency Requirements for Certain Physicians (H.P. 1180) (L.D. 1609) (H. "A" H-167)

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. 123 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.

LATER TODAY ASSIGNED  
Emergency Measure

An Act Creating a Study on Uniform Liquor Pricing and Other Factors in the Operation of the State Liquor Commission and the Bureau of Alcoholic Beverages (H.P. 1206) (L.D. 1644) (S. "A" S-83)

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

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

PASSED TO BE ENACTED  
Emergency Measure

An Act Authorizing the Use of Gill Nets by Department of Inland Fisheries and Wildlife Personnel for Scientific Purposes (H.P. 1211) (L.D. 1653)

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. 121 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 the Civil Service Law (S.P. 547) (L.D. 1652)

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. 127 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

An Act to Establish a Presidential Primary in Maine (S.P. 531) (L.D. 1595) (S. "A" S-80)

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

PASSED TO BE ENACTED

An Act to Require the Use of Seat Belts for Children 12 Years of Age and Younger (H.P. 649) (L.D. 877)

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

Representative Willey of Hampden 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 passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 80

YEA - Aliberti, Allen, Anthony, Bailey, Baker, Bickford, Bost, Bott, Boutilier, Brown, Callahan, Carroll, Clark, M.; Coles, Conley, Cote, Crowley, Curran, Dellert, Diamond, Dutremble, L.; Farnum, Foss, Foster, Greenlaw, Gwadosky, Handy, Hanley, Hickey, Higgins, Hوجلund, Holloway, Jacques, Ketover, Kil Kelly, Lacroix, LaPointe, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Macomber, Manning, Marsano, Matthews, K.; Mayo, McGowan, McPherson, McSweeney, Melendy, Mills, Mitchell, Murphy, E.; Nadeau, G. G.; Nadeau, G. R.; Nicholson, Nutting, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Pines, Pouliot, Priest, Rand, Reed, Reeves, Rice, Richard, Rolde, Ruhl in, Rydell, Scarpino, Seavey, Simpson, Small, Soucy, Stanley, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Swazey, Taylor, Telow, Thistle, Tupper, Vose, Walker, Warren, Webster, M.; Wentworth, Weymouth, Whitcomb, Zirnkilton.

NAY - Anderson, Armstrong, Begley, Bragg, Carter, Cashman, Chonko, Clark, H.; Davis, Dexter, Duffy, Erwin, P.; Farren, Garland, Gould, R. A.; Gurney, Hale, Harper, Hepburn, Hichborn, Holt, Hussey, Ingraham, Jackson, Jalbert, Joseph, Mahany, Martin, H.; McHenry, Michaud, Moholland, Norton, Parent, Perry, Racine, Ridley, Rotondi, Salsbury, Sheltra, Sherburne, Smith, Strout, D.; Tamaro, Tardy, Tracy, Willey.

ABSENT - Dore, Hillock, Kimball, Murphy, T.; Paul, The Speaker.

Yes, 97; No, 46; Absent, 6; Vacant, 2; Paired, 0; Excused, 0.

97 having voted in the affirmative and 46 in the negative with 6 being absent and 2 vacant, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act Creating the St. Croix International Waterway Commission (H.P. 733) (L.D. 985) (H. "A" H-165 to C. "A" H-131)

An Act Concerning Interstate or Intrastate Operating Permits (H.P. 806) (L.D. 1080) (S. "A" S-84)

An Act to Equalize Retirement Credits for Air and Army National Guardsmen (H.P. 1177) (L.D. 1606) (H. "A" H-142; H. "B" H-166)

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

PASSED TO BE ENACTED

An Act to Establish Greater Communication in the Rule-making Process and to Provide Better Standards for the Adoption of Rules (H.P. 1210) (L.D. 1651)

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

Representative Gwadosky of Fairfield 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 passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 81

YEA - Aliberti, Allen, Anderson, Anthony, Armstrong, Bailey, Baker, Begley, Bickford, Bost, Bott, Boutilier, Bragg, Brown, Callahan, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Curran, Davis, Dellert, Dexter, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnum, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Hale, Handy, Hanley, Harper, Hepburn, Hichborn, Hickey, Higgins, Hoglund, Holloway, Holt, Hussey, Ingraham, Jackson, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Macomber, Mahany, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McPherson, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Nadeau, G. G.; Nadeau, G. R.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Perry, Pines, Pouliot, Priest, Racine, Rand, Reed, Reeves, Rice, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Simpson, Small, Smith, Soucy, Stanley, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Strout, D.; Swazey, Tammara, Tardy, Taylor, Telow, Tracy, Tupper, Vose, Walker, Warren, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirnkilton, The Speaker.

ABSENT - Farren, Hillock, Kimball, Murphy, T.; Paul, Thistle.

Yes, 143; No, 0; Absent, 6; Vacant, 2; Paired, 0; Excused, 0.

143 having voted in the affirmative and none in the negative with 6 being absent and 2 vacant, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Amend Certain Laws Relating to the Department of Environmental Protection (H.P. 1212) (L.D. 1654)

An Act to Improve Public Lands' Camp Lot Management (S.P. 475) (L.D. 1438)

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

An Act Relating to Check Cashing (S.P. 274) (L.D. 784) (C. "A" S-79)

An Act to Establish an Outreach and Support Program for Head-Injured Persons (S.P. 436) (L.D. 1316) (S. "A" S-82; C. "A" S-75)

An Act to Clarify Licensing Definitions under the Laws Related to the Board of Pesticides Control (S.P. 487) (L.D. 1469)

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

PASSED TO BE ENGROSSED

An Act to Prohibit Smoking in Public Areas of Publicly Owned Buildings (H.P. 270) (L.D. 353) (C. "A" H-151; S. "B" S-88)

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

On motion of Representative Brown of Gorham, under suspension of the rules, the House reconsidered its action whereby L.D. 353 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-151) was adopted.

The same Representative offered House Amendment "A" (H-197) to Committee Amendment "A" (H-151) and moved its adoption.

House Amendment "A" (H-197) to Committee Amendment "A" was read by the Clerk.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: Could the Representative from Gorham explain the amendment please?

The SPEAKER: The Chair would advise the Representative that it is an amendment from the Committee on Bills in the Second Reading.

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

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

Representative Brown of Gorham requested a roll call vote on passage to be engrossed.

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

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

The SPEAKER: The pending question before the House is passage to be engrossed as amended in non-concurrence. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 82

YEA - Aliberti, Allen, Anderson, Anthony, Bailey, Baker, Bickford, Bost, Bott, Boutilier, Bragg, Callahan, Carroll, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Davis, Dellert, Dexter, Diamond, Dore, Duffy, Dutremble, L.; Farnum, Foss, Foster, Garland, Gould, R. A.; Greenlaw,

Gwadosky, Handy, Hanley, Harper, Hepburn, Hichborn, Hickey, Higgins, Hoglund, Hussey, Jalbert, Ketover, Kilkelly, Lacroix, LaPointe, Lawrence, Lisnik, Look, Lord, Manning, Marsano, Matthews, K.; Mayo, McGowan, McPherson, Melendy, Michaud, Mills, Mitchell, Murphy, E.; Nadeau, G. G.; Nadeau, G. R.; Nicholson, Norton, Nutting, Paradis, E.; Paradis, J.; Paradis, P.; Pines, Pouliot, Priest, Racine, Rand, Reeves, Rice, Richard, Rolde, Ruhlin, Rydell, Seavey, Sheltra, Simpson, Smith, Soucy, Stanley, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Swazey, Tardy, Telow, Thistle, Tracy, Tupper, Vose, Walker, Warren, Webster, M.; Wentworth, Weymouth, Whitcomb, Zirkilton.

NAY - Armstrong, Begley, Brown, Cashman, Chonko, Curran, Erwin, P.; Farren, Gurney, Hale, Holloway, Holt, Ingraham, Jackson, Joseph, Lebowitz, MacBride, Macomber, Mahany, Martin, H.; McHenry, McSweeney, Moholland, O'Gara, Parent, Perry, Reed, Ridley, Rotondi, Salsbury, Scarpino, Sherburne, Strout, D.; Tamaro, Willey.

ABSENT - Carter, Hillock, Jacques, Kimball, Murphy, T.; Paul, Small, Taylor, The Speaker.

Yes, 105; No, 35; Absent, 9; Vacant, 2; Paired, 0; Excused, 0.

105 having voted in the affirmative and 35 in the negative with 9 being absent and 2 vacant, the Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" and Senate Amendment "B" thereto in non-concurrence sent up for concurrence.

FINALLY PASSED

RESOLVE, to Create Dispersed Recreational Opportunities on Public Lands at Pineland (H.P. 1209) (L.D. 1650)

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:

SENATE DIVIDED REPORT - Majority (7) "Ought to Pass" in New Draft under New Title Bill "An Act to Amend the Municipal Public Employees Labor Relations Law" (S.P. 557) (L.D. 1667) - Minority (6) "Ought Not to Pass" - Committee on Labor on Bill "An Act to Amend the Municipal Employees Labor Relations Law" (S.P. 132) (L.D. 337)

- In Senate Majority "Ought to Pass" in New Draft under New Title Report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-95)

TABLED - May 27, 1987 by Representative McHENRY of Madawaska.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" in New Draft under New Title Report.

On motion of Representative Diamond of Bangor, retabled pending the motion of Representative McHenry of Madawaska that the House accept the Majority "Ought to Pass" Report in New Draft under New Title Report and later today assigned.

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

Bill "An Act to Extend Maine's Bottle Bill" (H.P. 662) (L.D. 895)

- In House, passed to be engrossed on May 21, 1987.

- In Senate, passed to be engrossed as amended by Senate Amendments "A" (S-89) and "E" (S-94) in non-concurrence.

TABLED - May 27, 1987 by Representative ALLEN of Washington.

PENDING - Further consideration.

On motion of Representative Gurney of Portland, the House voted to recede.

Senate Amendment "A" (S-89) was read by the Clerk and adopted.

Senate Amendment "E" (S-94) was read by the Clerk and adopted.

Representative Gurney of Portland offered House Amendment "B" (H-199) and moved its adoption.

House Amendment "B" (H-199) was read by the Clerk.

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

Representative GURNEY: Mr. Speaker, Men and Women of the House: All this amendment will do is increase the handling fee paid by the distributor to the redemptor by one-half of a cent on wine cooler containers and wine cooler containers only.

I would request a division.

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

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

I would urge you to vote with me for the indefinite postponement of House Amendment "B" and I would call to your attention the fact that this is an amendment regarding handling fees on wine coolers only. Currently, the handling fee for all other returnable containers is 2 cents -- this would make a special exception for wine coolers only of a half a cent difference to two and one-half cents. While that may be an issue worth discussing, I think it is inappropriate to amend the bottle bill in this manner at this time.

I would also call to your attention the fact that the committee did have a redemption bill in front of it this session and that bill was given a unanimous "Leave to Withdraw" by the committee. While there may be merit in discussing in the next session increasing handling fees on wine coolers and other returnable containers, I think it is inappropriate at this time to amend this particular bill in this way. I would urge you to join me and vote for indefinite postponement.

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

Representative ALIBERTI: Mr. Speaker, I would question whether this is germane at this time where this issue was addressed. As the Chairman of the Committee indicated we did, in fact, pass a "Leave to Withdraw" on a very similar type of bill. I would ask the Chair to rule on that please.

The SPEAKER: The Chair would advise the Representative from Lewiston, Representative Aliberti, since the amendment deals only with the issue of wine cooler bottles, that the amendment is germane. The fact that the bill has been defeated along the same lines for this session does not take precedence at this point. However, next session that would, in fact, be the case.

The pending question before the House is the motion of the Representative from Washington, Representative Allen, that House Amendment "B" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

82 having voted in the affirmative and 21 in the negative, the motion did prevail.

Subsequently, the House voted to concur.

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

HOUSE DIVIDED REPORT - Majority (8) "Ought to Pass" - Minority (5) "Ought Not to Pass" - Committee on Labor on Bill "An Act to Increase the Minimum Wage" (H.P. 869) (L.D. 1170)

TABLED - May 27, 1987 by Representative DIAMOND of Bangor.

PENDING - Motion of Representative McHENRY of Madawaska to accept the Majority "Ought to Pass" Report. (Roll Call Requested)

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

Representative WILLEY: Mr. Speaker, Men and Women of the House: The minimum wage -- it seems like only yesterday that it was here before but I guess it has been three years and, low and behold, it is here again.

At the time we started, three years ago, we were on par with that of the federal government. In other words, \$3.35 an hour. The federal government is still at \$3.35 an hour while Maine has gone to the highest minimum wage of any of the continental United States, \$3.65 an hour. Alaska is at \$3.80 an hour, which is the only state that exceeds us.

I am sure you will hear from speakers that will say that the prosperity in the state that has been enjoyed in the last couple of years is due entirely to our high minimum wage. I don't think that is the case, since a number of other New England states have suffered even greater prosperity in the last few years and they did not increase the minimum wage.

I think Representative McHenry said yesterday, in the short time that he spoke on the bill, that it would be like pouring \$40 million or so into the state's economy and that it would, indeed, help the small employers. I can't, for the life of me, see how that is possible. In the first place, I don't know where the \$40 million would come from in that it appears none of us have a machine that makes money to turn out these dollars that are necessary to support it.

A good idea of what the thing may cost is the Report (H-188) that was put on your desks yesterday with a fiscal note saying that this year it cost the state \$96,000 and next year, \$292,000 and that, of course, will go up each year after that. The money has to come from somewhere and it comes from the consumer.

If an employer is forced to up the rates by 10 cents that he pays his employees, there is no place for that to come from but raising the cost of the products that he produces. Therefore, you are paying an extra cost for the same product, which results in inflation because you are having no extra production whatever, it is pretty much of a gratuity.

You might wonder about the unions position on this matter because the unions are very much for increasing the minimum wage. The reason you might wonder about it is because I don't believe there is a union around at all that has members that pay the minimum wage. I suggest that if they do, they ought to get another business agent because that simply is not the trend. The reason that they are for it is simply a floor, thereby an escalator, because everything is based on the minimum wage and it escalates in every pay scale from thereon up. Over a period of time, if you give the minimum wage people an increase of say, 8 percent, then over a year or two, that 8 percent eventually gets reflected in every pay scale on up through, including that of the

President. They maintain the same difference in these rates. As a matter of fact, in the discussion at the work session in committee, I offered to support the bill if it would be written in such a manner that the increase would be confined only to those who receive minimum wage and not be used as an escalator all the way up the ladder.

There are adverse effects on businesses, particularly businesses who manufacture products in this state and which must be sold outside of the state. They have a handicap in that respect and it is very difficult for them to compete against people in states where they sell their product who have a lesser minimum wage. This was brought out adequately in the discussions at the work sessions.

We are struggling mightily in this state and everybody has given it a lot of lip service for economic development. It is very difficult, I think, for this state to enjoy any amount of economic development when we have one of the highest workers' compensation costs in the nation and the highest minimum wage in the nation. That is very definitely a deterrent in this respect.

I have no intention of dragging this debate on because I am thoroughly convinced that, after being here a number of years, that 95 percent of us at least, had our minds made up before we come into this chamber. The decisions are made elsewhere.

I hope that this debate doesn't drag on for a long period of time because I don't think it will serve any useful purpose and I don't think very many votes would be changed.

I do sincerely hope that we defeat this bill. I would ask for a roll call.

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

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: At this time, we are discussing a people issue. To politicize this issue is to demean the issue itself. By so doing, the issue becomes larger than all of the people and all of the towns in all of the State of Maine. The issue then takes precedence over the people. That is wrong.

You would ordinarily expect a senior citizen of my years, a lifelong Republican, a third generation Republican, a real conservative, to be the last person in this room to stand up and speak strongly in favor of an increase in the minimum wage for the working people in Maine. I want to tell you that, neither age, political affiliation, or traditional philosophy can convince me that opposition to an increase in the minimum wage for the people of Maine is right, economically justified, or morally acceptable to me.

My friends have recounted what they thought was to my benefit all the old arguments that were used when the last three year minimum wage bill was passed by this body a few years ago. At that time, we were told that old business would flee the state, that new business would look elsewhere for a new home, that financial ruin would occur, that businesses would fail and there would be a tremendous loss of jobs. You know what happened as well as I do -- the sky didn't fall, the world didn't come to an end and we have more people working today than we did when that law was first passed, several years ago.

They tell us if we lift the bottom of the pot, the whole pot will rise and my answer to that is, so what if it does? They bemoan the spiraling effect and they say that disaster will follow, this escalation, and that all this will be a deterrent to business, both old and new. I say to you, that a 10 cent increase in the minimum wage to the working people at the bottom of the economic ladder won't be

half the deterrent that is presented by our outmoded and outdated tax procedures that we have on the books at the present time. It won't be half the deterrent that is imposed on us by some of the overly restricted limitations imposed on business by some of our regulatory agencies and it is not half the deterrent that we see resulting from our financially devastating Workers' Compensation program that is on the books today.

If we are really interested in business and we really want to promote industrial and economic growth, instead of bleeding the poor working man to death, why don't we tackle some of these big problems and take some positive action in those areas?

I want to tell you why I am really leaving the nest to support the proposed increase in the minimum wage. I have a lot of nerve, I have a thick skin -- some people sometimes say I have a lot of brass, I am not really bashful but I want to tell you that I wouldn't have the nerve to go home and face my neighbors, my friends, and my family and all my other constituents and tell them that, a year ago, this legislature voted to give the teachers a \$2,000 bonus (and I voted for that) and to tell them that this legislature increased the minimum teacher's salary from \$3500 to \$13,500 (and I voted for that) and that we approved an increase in the Governor's salary of \$35,000 (and I voted for that) and, just a year ago, this legislature voted a \$4500 increase in pay for ourselves -- I couldn't tell them all that and look them in the eye and say, you aren't worth 10 cents.

My colleagues probably will read me out of the party but I am telling you that I couldn't do this to my best friends. I couldn't face these men and women, who go out doing jobs every day for a minimum wage, jobs that maybe you and I can't do, a job that you and I don't want to do and jobs that you and I wouldn't do, because my constituents mean too much to me. I couldn't insult them by voting against this measure.

We hear the argument that if we pass this bill, our minimum will be higher than the national minimum and I again say, so what? What is Maine's motto? Is it just a word or words? Does it mean what we think it means or what we say it means? If it means what we pretend it means, we are going to vote to support a minimum wage increase for the working people in the State of Maine. If it doesn't mean to us what most people think it means, we ought to perhaps consider changing that motto to say, "We are happy to follow." We could express it more poetically by saying, "We are content to drag along behind." I didn't vote for a raise for myself last year but I accepted it and, if you did too, you and I are in the same box today and I hope that your conscience will encourage as it has encouraged me to abandon the double standard, which says, "Everything I can get for myself and to heck with the rest of the world." I hope that it will encourage you to join in the support of a bill that is designed to bring some measure of benefit to the working people of the State of Maine.

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

Representative ZIRNKILTON: Mr. Speaker, Men and Women of the House: I was one of those, a few years ago, expressing concern about what would happen to the economy of the State of Maine if we, in fact, increased our minimum wage, which we did. It is now, as Representative Willey pointed out, the highest minimum wage in the continental United States with only Alaska being higher. I would truly like to be able to support this bill but I cannot and the reason

that I cannot is because, during all of the testimony that we had in our hearings, subsequent work sessions, conversations that I have had with those that represent the minimum wage earners and with those that represent the opposition, I have not been convinced that an increase in the minimum wage would, in fact, benefit the very people that we are trying to help stay and that is the minimum wage earner. In fact my concern is, that by increasing the minimum wage, we may, in fact, hurt them. Let me explain to you why I have that concern.

You were given some figures earlier by Representative Willey so please bear with me for a moment while I run some others by you in a bit of a hypothetical situation.

If someone receives a 10 percent raise in their wages, it takes no genius to realize that there are other associated costs that go along with that such as an increase in the workers' compensation premiums the employer must pay and also an increase in the unemployment compensation that the employer must pay. The amount that they pay, of course, depends upon their classification and their rating and the amount that they pay in the workers' compensation area so for our conversation today, we will use a rough estimate.

Let's say, for example, that someone receives that 10 cent increase in their wages and the miscellaneous associated cost to the employer to go along with that 3 to 4 percent range so the increase to the employer is, let's say 13 or 14 percent in that area. The employer, as all of you know, unless they have an excellent profit margin with their product or their service, is not going to eat that loss. It is that simple. What they will do is they will pass that onto the consumer.

You all know that most of the minimum wage jobs are in the services type area, whether it be grocery stores, gas stations -- basically all the kinds of things that all of us and all of the minimum wage earners consume on a daily basis so what we will be doing is increasing the cost to these services and these products to the minimum wage earner by 13 to 14 percent. How are they going to pay for that with a 10 percent raise in their wages? I don't understand that.

With regard to comments that were made by my good friend, Representative Hichborn, as far as the increases in salaries for teachers and the Governor, even with the mandated increase in teachers' salaries that we gave to our teachers, they still rank, as I understand it, 48th in the nation in salary, even with that increase. The Governor was given an increase because he, too, was one of the lowest paid Governor's in the United States. The other side of that coin is that our minimum wage earners certainly don't earn enough but they are, as I stated earlier, the highest paid in the continental United States.

The argument that we used in the past about being competitive with other nations, I don't think can hold true any longer. For that reason, when the federal government considers its increase in the minimum wage, I will favor that increase. The reason that I will favor that increase is because it will establish uniformity among all of the United States and it will make the Congress realize that our people should not be continually subjected to working for low, low wages in a society with high costs, all in the name of remaining competitive with foreign nations who, for the most part, pay their people so much less than our present minimum wage that we couldn't possibly be competitive if we tried. If we are to remain competitive with them, we will have to do so in other areas, whether it be tariffs or



quota's or whatever, but that argument, I just don't think, will hold true any longer.

As far as what it has cost us to implement the minimum wage here in the State of Maine, I really don't think it can be measured. Certainly, the economy has boomed, at least in the area of service-related jobs, it has gone along with the rest of the nation in that. I think what cannot be measured is — what jobs have not been created because of that increase? That is a question that I think, frankly, no one in this chamber or, for that matter, probably no one in this state, can answer. The facts, the figures, the statistics, just aren't available to produce any factual information regarding that.

The economy, regardless of what we do, will always dictate the expansion of business, the creation of jobs, and the type of lifestyle that our people will lead here in Maine and, indeed, throughout the nation. If the economy is going well, jobs will be created. Not only will jobs be created but people will earn more. The reason they will earn more is because, when you have a lot of jobs, there is competition among employers to find available help. I don't know what things are like in your area but I can tell you that, in my area, help, at least at this time of the year, is very, very hard to come by so there are very, very few minimum wage jobs. You can see ads in the paper advertising positions starting at \$4, \$5 and sometimes even more dollars per hour because they cannot find available help. That is a prime example where a healthy economy dictates what the salary will be.

What we are attempting to do here is to falsely address what the economy dictates by legislatively mandating what will happen to our minimum wage here in the state. Certainly no one can argue that that will fuel inflation. There is no question about that. I am not going to stand here and tell you that the economy will collapse or anything else as we all espoused a few years ago because I don't think that will happen. But I do believe, as I did before, that it is not in the best interests of the very people that we are trying to help. It is a tough issue, it is an emotional issue, and that is how I feel.

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

Representative RAND: Mr. Speaker, Men and Women of the House: Since the first debate on this issue, there have been those who have argued that minimum wage laws hurt the economy, cause inflation, and lead to increases in unemployment. Congress has traditionally responded to these arguments by raising the minimum wage, never raising it high enough to eliminate poverty, but raising it nonetheless.

The traditional arguments were, again, presented to the Labor Committee. Opponents to a minimum wage increase bemoaned the fact that they will have to fire people, that their businesses will be hurt and that they will be forced to pass the increase onto their customers. Glaringly omitted from their testimony was one shred of evidence that the past increase had harmed their business in any way. Indeed, one very local opponent had actually expanded his business by one additional Burger King franchise per year for the past three years.

I am willing to be reasonable to balance scales between the employer and the employee but I need more evidence than that to convince me that an increase in the minimum wage will sound the death note for Maine business. It has been said that an increase will send the wrong signal to businesses that contemplate locating in Maine. I say that the signal we should send is that we do not condone what amounts to slave

wages for our people. Maine people work hard, give a full day's labor for a day's wage. That wage should enrich, not insult their labors.

The proposed, very modest increase, will be a small attempt at reflecting the work of all people. Even if successful, remember that thousands of Mainer's will still be laboring at below federal poverty guidelines.

I urge the members of this body to vote for justice and give 70,000 hard working Mainer's a 10 cent an hour raise.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker, Men and Women of the House: I come from a rural district and have many small employers running many small businesses. What is the most frequent request that I have from them? Please vote against legislation that will overregulate and, in essence, keep us restricted to what the state wants us to do.

Small businesses are the backbone of the Maine economy and, when an employer is able and decides to pay in excess of minimum wage, that is just fine with me. What I do object to is the desire at this level here in this body to legislate salaries for private businesses. Some of our employers are competing against out of state prices and foreign markets. Since we are second only to Alaska in having the highest minimum wage in the states and since we are presently higher than the existing federal minimum wage, I encourage you to vote against the pending motion and not increase the minimum wage at this time.

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

Representative ROLDE: Mr. Speaker, Men and Women of the House: In seven terms in this body and listening to debate on the minimum wage, I don't think I have ever heard anything new except the differing amounts as to what that minimum wage should be. So, in an attempt to remedy that lack of innovation, I would add one point which I believe has never been made and this is an esoteric bit of history that I read in a book by the great French economic and social historian, Fernand Braudel. In that book, Braudel posed a question — which country in the world, prior to the industrial revolution, was the most industrially advanced? The answer to that question was India. Then the next question was — why didn't the Industrial Revolution occur in India instead of in England? The answer was, because Indian wages remained so low so that an increase in wages led to an increase in innovation. That is what history teaches us.

It is also the reason the third world countries are so marred in poverty because they have kept their wages so low.

I am sure that the debate here today is the same as when the minimum wage was 20 cents an hour or 50 cents an hour. We didn't keep our wages low and our economy in Maine has advanced. So, as a famous Maine Governor used to say: "Think about it."

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

Representative MCHENRY: Mr. Speaker, Men and Women of the House: I don't believe there is anything that I can say or anyone else can say that will change the mind of the people in this House. But I feel that I must correct a statement that was made by prior speakers.

Presently, the District of Columbia has a minimum wage of \$3.50 to \$4.75 an hour depending upon classification. Massachusetts will have a minimum wage of \$3.75 starting July 1, 1988. New Hampshire will be \$3.65 in 1989. Rhode Island will be \$3.65

July 1, 1987 and Vermont, following our lead, of course, will be \$3.65 July 1, 1988.

I don't believe that there is anything I can say that will change anybody's mind after the eloquent speech of the good gentleman from LaGrange, who was honest and true to his word -- he did say that he would support minimum wage and I have never heard a better speech so there is nothing I can add to what the good gentleman, Representative Hichborn, said.

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

Representative CONLEY: Mr. Speaker, Men and Women of the House: I, too, want to commend Representative Hichborn for his remarks. They were conscientious, sensitive -- a man who is truly speaking his heart on this issue.

I also want to commend the Speaker for ringing the bell, I think it is highly disturbing that so many people have left the chamber during a debate, which I consider to be a very important one. It is a perennial issue but it is an issue which deserves a lot of attention and I think the people should listen to both sides of the debate.

As Representative Baker pointed out yesterday, it is difficult to change people's minds on this issue, the only way people can change their minds and the only way society changes is if people listen conscientiously to what other people have to offer on both sides of the argument.

I would like to say in regards to this particular issue, the issues which have been trotted out are by those who are in opposition to raising the minimum wage and are the very issues which have been trotted out by everybody since the minimum wage was first enacted in the state and at the federal level. They were either against putting in a minimum wage or raising a minimum wage.

Two points I would like to make in regards to this. First, there is not one Maine business which closed as a result of this state passing a minimum wage, which was higher than the rest of this country some years ago.

Second, I did a little figuring and it seems to me that we, who are sitting here, are paid about two and a half times more than what those people get who are working for the minimum wage. Those are actually people who work for a living, who are out there making that money. We are people who sit here and can raise or pass a raise for ourselves, we are the only people who can pass a raise for them. They have no union, they are the people who do the job that nobody else wants to do. I would ask the members of this body to think about that and vote in favor of raising the minimum wage.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: Two years ago we debated the minimum wage and I heard all these predictions of gloom and doom and I did have some reservations when I voted to increase the minimum wage because I had heard so often that all the businesses in this state would be packing and heading out. I heard that the Kittery bridge would be flooded with all these businesses leaving and any who came would stop at the Kittery bridge because of the minimum wage in the State of Maine. We found that that did not happen. The arguments are a little less severe in that direction but they, basically, allude to the same concept that, if we raise the minimum wage for the working people of this state, that businesses will not want to locate here and that businesses will leave this state.

You know, every month you get a little report from the Bureau of Labor -- I look at mine, I don't throw it in the trash -- and traditionally, for the past two years, the unemployment rate in this state is in better shape than the rest of the nation, including states like Louisiana and Georgia where they still pay slave wages today. The unemployment rate is still better. You should ask yourself, why?

For the last two years, you know what the Energy and Natural Resources Committee has been dealing with, over-development in the State of Maine -- from solid waste problems to shoreland zoning problems to minimum rock size to subdivision laws. Hardly sounds like a state that nobody wants to come to because, obviously, if there was no business here, people wouldn't be coming here to live and vice versa. Those issues are still on the table downstairs in the Energy and Natural Resources and we are still trying to deal with them. There is getting to be more and more development in this state. Hardly a state that is on its way backwards.

Every time I have talked to a business of why they wanted to leave here, I have never heard, as Representative Conley said, them mention minimum wage. Foreign competition -- there is not much that we can do about that on the state level. They have mentioned workers' compensation but they have never mentioned minimum wage.

We had a survey that was mailed to everyone here that said -- "Why do you want to come to Maine?" It is the quality of life, the quality of the people who work here -- there is still work ethics and pride here in the State of Maine. I remember very distinctly when I asked Nick Carsano, who was the Vice-President of S. D. Warren Division -- why do you like it in Maine? We like it in Maine because you have good, strong, dependable workers. Now, those workers in Scott Paper are not minimum wage workers but he was talking about work ethics and that work ethic applies to somebody who is getting \$4.00 an hour just as much as somebody who is getting \$14.00 an hour.

We have not seen those visitors leave. We have to make a decision -- do we want to pay people? There was a guy on TV the other day, who was a leading professor and he was talking about the current trend, Reaganomics, Reagan administration, and he said, "Look, I will tell you something right now, you can talk about welfare until you are blue in the face but, until you do something to allow people to earn a decent living wage, whether it be the single mother whose husband took off and she can't get any child support or the guy who is trying to support a family and doesn't have the education needed to get a high paying job, you will have welfare. Until the people in this country get rid of that mentality about not paying people a living wage, you are going to have welfare because they are better off on welfare doing nothing than they are working and receiving nothing." So, we can talk about welfare, we can talk about cutting back on the people who are dependent upon government subsidies, whether they be state, federal or local, but until you give people the incentive to work and give them the money, that they need to support their families, you are not going to solve that problem. All the rest is just political rhetoric and hogwash.

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

Representative ZIRNKILTON: Mr. Speaker, Men and Women of the House: I am going to try, very briefly, to add what I think maybe is some new information to

this debate that we didn't have a couple of years ago and that deals with the area of taxation.

I recently learned that the State of Maine treats its poorest (as far as taxes are concerned) considerably rougher than do many other states. So, there are a lot of fingers that point at the employers of this state who pay the minimum wage — perhaps fingers should be pointed at us also for not reducing that tax burden on the poorest of our poor. It certainly should be noted that, with the federal tax changes and also with the soon-to-come state changes, these poor will, in fact, benefit. To what extent, remains to be seen. It is something we are still pondering in the Taxation Committee and really haven't come to any significant conclusions as of yet but there will be some benefits. I just wanted to make it known that we, too, are culprits and if taxes were less, then people would have more money to pay their people. If we taxed our people less, they would have more money to spend in our economy so maybe we ought to watch what we do here as well.

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

Representative BAKER: Mr. Speaker, Men and Women of the House: Just to respond to the Representative from Mt. Desert, Representative Zirnkilton, in 1983, I sponsored an income tax bill which would have done precisely what the Representative has suggested. It would have relieved the tax burden of those people who are making around \$8,000 or \$9,000 a year. I would remind this body that that bill was laughed off the face of this legislature so let's not point to alternatives if we are not going to enact those alternatives.

While I am on my feet, I would like to take issue here with my favorite newspaper, the New York Times, that great bastion of liberalism. Here we have a paper that suggests that the minimum wage is outmoded. What do they suggest? Wage supplements, training and education — now I am not opposed to training and education but when you deal with workers and wages, you cannot simply deal with them in isolation. But I would like to point out that we are not doing any of this. To simply point to all of the alternatives and not do them, in my opinion, is simply not worthy. I think we should get on with the business of dealing with the minimum wage issue and I think we should pass a higher minimum wage.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Men and Women of the House: I think it was a little bit lamentable at the hearing we had on this minimum wage — we didn't have any economists or anyone who studied the effects of wages and the cost of labor who appeared before us, it was mostly individuals from organized labor and those from the business community. The U.S. Congress has had some hearings on the federal minimum wage increase and had a hearing on April 8th. They did have the benefit of some people who are professionals in this field. I just wanted to relate to you some information that they said. Charles Brown, of the University of Michigan, who is the senior economist on the minimum wage study commission for the U.S. Congress had a few things to say. I think one thing that is most important here as it relates to the effect that the increased minimum wage would have on the working poor is that Brown said "An increase in the minimum wage would have little impact on the poor." The correlation between working for low wages and being poor, i.e., having a low income is surprisingly weak. Even a hypothetical 22 percent increase in the minimum wage with no loss of employment raises the

income of these households with less than 1 percent. Here we are considering an increase in the minimum wage of 8.2 percent so, if his figures were to be correct, we would be talking about a household income increase for these types of families something in the order of four-tenths of a percent.

Ladies and gentlemen, raising the minimum wage is very improper and an indirect tool in an attempt to alleviate poverty and lessen the burden on those people who don't have the ability to maintain a decent standard of living.

Another group of economists that worked with the U.S. Minimum Wage Commission concluded that the increase in minimum wage "appears to be a poor policy with effects that have often been misunderstood and misrepresented." If we raise the minimum wage to \$3.95 to \$4.50 or \$5.00 an hour, we will still have people that will need to have help from the state and help from us in society. That is okay but it is important to remember that it is not the marketplace that should be subsidizing our welfare payments in this state, it is the State of Maine. If people need help, we should give it to them, we shouldn't expect the business community to pick up the tab.

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

Representative KETOVER: Mr. Speaker, Men and Women of the House: I rise too because I am a supporter of this legislation. I just want to quote another article that I have just read and I thought it might be of interest to you. It says, "The drop in value of the minimum wage, since the last increase in 1981 has so reduced actual purchasing power that a rise to \$4.61 an hour would merely return workers' wages to the 1981 level, let alone increase their standard of living. It seems another way that the \$3.30 minimum is worth under \$3.00 today and it means that it has eroded to a subminimal wage. And, as the real wages of the most vulnerable workers in society, the young and the poor are lowered, the number of people living below the poverty line increases. A minimum hourly wage reflecting today's standard of living and once we bring wages up to fair value, we must to ensure that, once and for all, the minimum wage keeps pace with the cost of living. A fair minimum wage is not just a labor issue, it is an issue that all Americans concerned with the plight of the working poor, the economy and the standard of living, must be concerned about. We must continue working towards these goals in order to safeguard the minimum protection for the most vulnerable. To raise the minimum wage is to a minimum standard of decency."

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 Madawaska, Representative McHenry, that the House accept the Majority "Ought to Pass" Report.

The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative NUTTING: Mr. Speaker, I request permission to pair my vote with the Representative from Sanford, Representative Paul. 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 the Representative from

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

ROLL CALL NO. 83

YEA - Aliberti, Allen, Anthony, Baker, Bost, Boutilier, Brown, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnum, Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Hichborn, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lisnik, Macomber, Mahany, Manning, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Nadeau, G. G.; Nadeau, G. R.; O'Gara, Paradis, J.; Paradis, P.; Perry, Pouliot, Priest, Racine, Rand, Reeves, Richard, Ridley, Rolde, Rotondi, Ruhlman, Rydell, Scarpino, Sheltra, Simpson, Smith, Soucy, Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Thistle, Tracy, Vose, Walker, Warren, Wentworth, The Speaker.

NAY - Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Bragg, Callahan, Curran, Davis, Dellert, Dexter, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Harper, Hepburn, Higgins, Holloway, Ingraham, Jackson, Lawrence, Lebowitz, Look, MacBride, Marsano, McPherson, Nicholson, Norton, Paradis, E.; Parent, Pines, Reed, Rice, Salsbury, Seavey, Sherburne, Small, Stanley, Stevens, A.; Stevenson, Strout, B.; Taylor, Telow, Tupper, Webster, M.; Whitcomb, Willey, Zirkilton.

ABSENT - Hillock, Kimball, Lord, Murphy, T.; Weymouth.

PAIRED - Nutting, Paul.

Yes, 90; No, 52; Absent, 5; Vacant, 2; Paired, 2; Excused, 0.

90 having voted in the affirmative and 52 in the negative with 5 being absent, 2 vacant and 2 paired, the Majority "Ought to Pass" Report was accepted, the bill read once and assigned for second reading later in today's session.

The SPEAKER: By unanimous consent, unless previous notice is given to the Clerk of the House or the Speaker of the House by some member of his or her intention, the Clerk is authorized today to send to the Senate, 30 minutes after the House recesses, all matters passed to be engrossed in concurrence and all matters that require Senate concurrence. After such matters have been sent to the Senate by the Clerk, no motion to reconsider will be allowed.

On motion of Representative Martin of Eagle Lake, Recessed until the sound of the gong.

(AFTER RECESS - 4:20 p.m.)

The House was called to order by the Speaker.

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

Bill "An Act to Improve the Teacher and Administrator Certification Law (H.P. 1195) (L.D. 1629) (S. "A" S-78)

TABLED - May 27, 1987 by Representative DIAMOND of Bangor.

PENDING - Motion of Representative SMALL of Bath to Indefinitely Postpone Bill and Accompanying Papers. (Roll Call Requested)

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

Representative BOST: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will abide by your previous action on this bill and vote against the motion to indefinitely postpone.

The strong bipartisan majority of the Education Committee deliberated for several weeks on the administrator and teacher certification law and concluded that the primary components, as presented to us from the State Board of Education, remain intact. We strongly differ on the third tier, the many reasons for which were brought forth in the debate last week. Master Teacher by any other name is still Master Teacher whether you call it professional two, lead teacher or something else. It is divisive and virtually impossible to define.

I feel I must respond to the press release from the Governor's Office last week with regard to Master Teacher. Part of the statement reads, "Repeal of Master Teacher certification in state law will threaten to turn back progress." Rather than turning back progress, I believe eliminating the third tier will serve to successfully reopen the discussion on reasonable and workable alternatives. The Education Committee is committed to working to such an alternative.

In that same press release, the Governor cites "The Carnegie Foundation's identification of a need for 'lead teachers' as a reason for his position." Yet, if he were to examine carefully, that Foundation's report, he would discover that it recommends "lead teacher" be a voluntary choice, a local option. I quote from the Carnegie Report: "We propose that districts create positions for a group of such people, designated lead teachers, in each school." Master Teacher, as piloted, would be mandated as part of certification. The Majority Report leaves it as a local option.

I must also respond to the Governor's statement that "refusal to accept change at the expense of progress is a fool's errand." Well ladies and gentlemen of the House, accepting change for the sake of change and, then placing that change into law, is the fool's errand. If Master Teacher, as presented to the Education Committee, is someone's idea of progress, dampening collegiality, promoting divisiveness among educators, endorsing a system of arbitrary awards, circumventing local options, I truly believe we are not progressing, we are regressing.

Because the purposes of licensing and certification are to establish minimum qualifications for professional practice, it has never been the function of teacher certification to reward teachers. However, some members of the public concerned about teacher morale would like the new certification law to perform this task; hence the political pressure behind the Master Teacher certificate. This contradictory charge asks those involved in the local Master Teacher certification process to simultaneously carry out the licensing function of identifying minimal competence, while at the same time carrying out the reward function of identifying outstanding competence.

I, and the majority of the Education Committee, have serious reservations about the ability of a state licensing process to reward teachers, due to the extraordinary technical difficulty of making this activity come under the umbrella of a certification process. After several years and millions of dollars

worth of effort, neither Tennessee nor Florida have been able to make this idea work. Texas seems to be headed in that direction as well.

I would like to quote from a letter from Tom Harvey, which illustrates my point. He was involved in the original discussion and drafting of the teacher certification law, now residing in Texas.

He first reflects on his experience in Maine: "The teacher certification committee of fourteen members had many discussions on this issue. Concern was expressed that the pilot sites were directing their time to Master Teacher instead of staff development and the probationary teacher. This redirection was coming from the administrative members of the pilot sites. The original intent of the founders of the new certification law will be compromised if compensation and certification are linked.

Texas public education is being destroyed by such a system. Educator morale is at rock bottom. Grievances and appeals to the commissioner are now backlogged for a minimum of two years. The Republican Governor is now talking repeal of the act, because it is too costly to implement equitably."

I also have concerns which result from the conflict that this process has generated between teaching colleagues and between teachers and administrators, and the strain it puts on scarce taxpayer dollars. We have taken a position recommending the elimination of the Master Teacher certificate by any name, although we encourage teachers to explore rewards not related to certification at the local level.

Some of you may have noted an article in today's paper, entitled -- "Maine Low in Salaries for Teachers" and I believe this same article was quoted in earlier debate on an unrelated issue.

Let me refer to this just briefly. "Although Maine increased its level of funding for education at a higher rate than all but nine states last year, its teachers remain among the most underpaid in the nation. The average salary for the nation's 2.2 million public school teachers is now \$26,704. Maine's average teacher salary for the current school year is \$21,257, the fourth lowest in the country. I have also been told that since this article was released that some administrators are actually figured into this data. If they were to be removed, we would slip to 47th in the nation. Master Teacher further heightens the disparity between the haves and have-nots within the profession and stretches resources which are better placed behind improving teacher salaries.

The new certification law has had a tremendous impact on the morale and professional commitment of the teachers involved in working with beginning teachers or working with their colleagues in a peer-coaching system. It has increased the intrinsic rewards of teaching immeasurable. Let's not put in place something which threatens to jeopardize the entire process.

Again, I urge this House to stand by its previous vote, and reject the motion to indefinitely postpone.

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

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I may be moved to indefinitely postpone this legislation because of my opposition to the elimination of Master Teacher. I oppose this bill because it eliminates the third level of certification before the completion of the piloting. We have not allowed the process to be completed before making judgments. I oppose this bill because it usurps the State Board of Education's

responsibility for certification of our teachers. This bill makes the decision to scrap the third tier a political one and not a reasoned one. I oppose this bill because it takes away the opportunity to test the third tier for one more year.

What are we afraid of that we cannot test a concept for one additional year before making a life or death decision on the third level of certification? Are we afraid the pilots will fail? Then the state board will surely recommend the elimination of Master Teacher. If they don't, we can. Are we afraid then that the pilots will be successful, that the state board will be able to make successful statewide standards for the third level of certification? Are we afraid that, once a successful program is developed, it will be hard to vote against putting it into the statutes? I think the legislature is more afraid of the possible success of the pilots, than the fear of their failure.

I urge you to cast your fears away today and vote to allow the state board to continue the piloting for the third level of certification.

Three years ago, the State Board of Education and the members of the Education Committee and the 111th Legislature, who passed the Reform Act of 1984, took an innovative idea for certification and made education history for Maine. A majority of those legislators who served on the Education Committee, who looked to the future for our education system and not just to the present, and who worked to improve education for our children, a majority of those legislators on that committee support continuing the pilots for one more year. Let's continue looking forward and not be afraid of success.

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

Representative HANDY: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair to the Representative from Bath.

I would like to ask Representative Small -- what have we learned from the piloting of the past two years?

The SPEAKER: The Representative from Lewiston, Representative Handy, has posed a question through the Chair to the Representative from Bath, Representative Small, who may respond if she so desires.

The Chair recognizes that Representative.

Representative SMALL: Mr. Speaker, Men and Women of the House: I think we have learned that the pilots in some areas were successful and very well received. We have learned that in some areas, the pilots were not so successful. From there the state board has taken the recommendations of those that were successful and they have set up new criteria that they wish to pilot in three more sites. After those three sites, we will then be able to evaluate whether this is something that can be done on a statewide basis or not. What I have learned from it is that there is not enough evidence to eliminate it.

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

Representative HANDY: Mr. Speaker, Men and Women of the House: I would like to investigate that response from the Representative a little further. The legislature is constantly concerned about fiscal responsibility and cost effectiveness. From time to time, we have a number of studies that come back and we wonder why they ever went out in the first place.

I would like to ask Representative Small -- what mechanism is in place to make certain that the pilot dollars that will be sent out (should these pilots be continued) -- what assurances do we have to make sure these monies are wisely spent? And could you

describe to us the manner in which the monies (that have already been allocated) are spent in each of the pilots?

Thirdly, would you describe what an effective pilot actually is?

The SPEAKER: The Representative from Lewiston, Representative Handy, has posed a series of questions through the Chair to the Representative from Bath, Representative Small, who may respond if she so desires.

The Chair recognizes that Representative.

Representative SMALL: Mr. Speaker, Men and Women of the House: I am trying to remember the questions. I should have written them down -- if I had known that there was going to be more than one, I would have taken notes.

I think we will have some further testimony today of what a successful pilot has been. I will leave it to that legislator or legislators to get up and give their testimony.

As far as the frugal commitment of our dollars, I don't think that anybody here would consider me a spendthrift, I think that we have only the assurances that those sites that will be piloted have already done piloting, so that the amount of money to continue those will be minimal. I guess we have the same assurance, that the continuation of the administrative pilot program, which all of us were in support of continuing, that those dollars will be wisely spent and would go for teacher certification.

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

Representative HANDY: Mr. Speaker, Men and Women of the House: We have learned a great deal from the piloting project that has gone on for the past two years. It has been an expensive project. The amount of monies required for a pilot site is far-ranging.

The member from Bath indicated that we would hear about what one successful pilot site has come up with. The fact is the definitions and the pilot sites involved are varied. Among the things that we have learned is that developing standards for Master Teacher is extremely difficult. A study by the University of Maine's nationally known effective teaching expert, Professor Theodore Coladarc, says that the difficulty of the problem with his conclusion was that educational "research" can equip teachers and teacher educators with an invaluable framework for viewing teaching. But one should be cautious in transforming these results into criteria for identifying individuals as effective teachers in general and Master Teachers in particular. At best, there are certain cautions to be observed; at worst, such a transformation is inappropriate.

Among the other things that we have learned is that most of the pilot projects develop standards for Master Teachers, which differentiated between professional and master certificates on the basis of creativity, judgment, commitment, leadership, integrity and other items which are subjective, non-quantifiable characteristics.

One results, catalogued by research of Paul Vincent in the paper for the College of Education at the University of Maine is that, over 80 percent of the criteria being used for Master Teacher in the pilot sites, is, indeed, subjective in nature.

I think that pretty much sums up why we should do away with Master Teacher but I have a constituent in my district, who was a Master Teacher, and he also was a member of a coordinating committee for recertification and on two support teams. I think his testimony comes from a personal experience that speaks well to eliminating Master Teacher. He says "During my candidacy for Master Teacher

certification, I received invaluable information and knowledge from courses such as models of teaching, peer coaching, peer observation, peer conferencing and resident supervisory support for teachers. All these courses were paid through by funds from the state. With the spiraling cost for education and budget cuts from Washington, I feel that these courses should be part of our regular college curriculum. This would serve two purposes -- first allow all teachers and potential teachers to receive this type of training, which in turn, would make them better qualified to teach our youngsters.

Secondly, the funds presently used for this type of training could be utilized for other important needs in our educational systems. I also feel that the title "Master Teacher" is not an appropriate name for recognizing outstanding teachers. The title Master Teacher gives the impression that we can walk on water, which is far from the truth."

I think today, ladies and gentlemen of the House, we have an opportunity to put this issue aside and for those pilots, and there may be a couple out there and I have heard of one, who want to continue this on the local level and expand on it there, that is the appropriate place for this. To include Master Teachers as a part of the licensure process in teacher certification is inappropriate for the State of Maine.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: The other evening when we first debated this bill, we heard some of the frustrations and even the anger of the some of the Education members who helped draft this certification proposal back in the 111th. A very weak proposal had come to us and that committee sensed the historic moment, sensed the opportunity in terms of moving education forward, and we took the time to rewrite that bill. All of us, irregardless of party, irregardless of what part of the state we were from, took real pride in the three tier certification proposal that came out that committee. We felt then, and I still feel this evening, that that action of that Education Committee back in the 111th, was the most important piece of educational reform in the last decade.

I am very concerned about the process that has brought us to this point of enactment of taking away the Master Teacher or third tier, the process of taking a backward step away from reform. This issue and the negative impact it will have on the public support for education is just beginning to be perceived. The editorial writers were the first to see it and they have been carrying the messages to teachers, school board members, administrators, parents of school children and the property taxpayer. They see it as special interest politics at its worst. How did that organization, the MTA, ever reach this most damaging position? The pilots were initiated as research projects, that is what we are dealing with this evening, research projects. The State Board of Education has come back, they need more time, and at this time when it was in committee, the MTA, very much to its credit, stood tall and helped the committee members and took a firm stand of taking a weak bill and making it strong. But something happened this winter and it wasn't because the MTA had heard from the pilot site teachers, no one has even bothered to talk with those teachers. It wasn't because of the representative assembly of that organization, they simply looked at the process with no facts, no basic research back yet, and declared it a failure and simply walked away.

The only fact that has emerged so far is that the research is incomplete. There are many success stories and there are some failures but there is one key that is beginning to emerge -- you have to have strong administrators to make this program work and you have to have strong administrators to move the profession and education forward. In some of those sites where there have been failures, it is pointing out maybe the need to continue this process because it may cause some administrators to take early retirement. That would be good for education.

The gentleman from Lewiston asked a question -- where are the successes? They are all around us, they are in all sections of the state but the union representing those teachers didn't even respect them enough to poll them and ask them what was right and what was wrong and how, together, we could improve the process. Representative Handy said that he would like to hear from teachers. I had promised them that I would read into the Record some of their comments because we have only heard what is wrong and, in many cases, what we have heard about what's wrong is from people who have never been in a pilot site or talked to someone in a pilot site.

Peter Hoff, elementary school teacher at Kennebunkport -- "The Maine Teachers Association does not serve the children of Maine by opposing the Master Teacher certification. To learn well, our children need teachers that are dynamic, interesting and professional. The Maine Teachers Association is not interested in approving education or interested in insulating the members from discomfort but growth has never been comfortable. It is up to the legislature to look past their saber rattling to ensure that Maine's children will have quality teachers. The Master Teachers certification is the first step in that direction. Let's not pull the rug out for the first step that is taken."

Mrs. Kathy Pence, Kennebunk -- "The Master Teacher certification process is alive and well in M.S.A.D. #71. Of course, our pilot site has encountered problems and difficulties over the past two years and these need to continue to be worked through. Isn't that the purpose of the project in the first place?"

During the last few weeks, many negative ideas and opinions have been stated, most generated by the MTA, and many from individuals not directly involved in the process. It seems that we, who have had a positive experience, need to speak up."

Mrs. Joan Leclerc, Kennebunk -- "It has been stated that the Master Teacher process has taken teachers out of the classroom. My experience has proved this statement to be erroneous. My classroom teaching became more alive and exciting and involved all of my students. At the completion of action plan, I not only felt a renewed commitment to my students, but the teaching profession as a whole. Not for a minute did my plan take me away from the classroom but rather enriched and enhanced my teaching. If, indeed, there are difficulties in the overall concept of Master Teacher, I would suggest that this valuable process be reworked in order to eliminate problems. Possibly the pilot sites could be extended or an extension of time granted to districts currently acting as pilot sites."

Mrs. Judy Hoff, Kennebunkport -- "I have found the whole process non-threatening because it is self-directed and non-competitive because of the support team we chose to help us. There is no pressure to adhere to any time line. On the contrary, the process gave form and direction to all the projects I would have been doing anyway to improve my teaching. Yes, it is a rigorous process

as we have defined it and is worth it. And no, it is not taking me out of the classroom or made me to become more professional, given me some new directions and put a few extra dollars in my pocket. Who loses? Not my students, not me, not even my fellow teachers who have the same opportunity open to them.

The MTA does not speak for me. I chose long ago not to belong to an organization that is strongly supportive of mediocrity. Our district is supporting excellent teaching and excellent classrooms for better pay.

I would urge the legislature to extend the pilot programs and urge other districts that have problems to get help from successful sites. The rewards of our program far exceed any problems."

We heard the House Education Chairman tell us the other night and this evening what is wrong with the Master Teacher level and why we should shut off the research. The editorial writers -- the other night, Representatives Soucy, Lawrence, Brown and Small shot that bucket so full of holes, it wouldn't even qualify as a piece of swiss cheese any more.

New commitments have been made. The new Commissioner of Education, Eve Bither, has committed herself and her department to expedite the paperwork. She said those teachers who are in the process can see the rewards of the certification much quicker than has been done in the past.

Governor McKernan, in his budget, has proposed meeting some of those costs for certification on the local level. The State Board and this legislature can reaffirm our intent that Master Teachers remain in the classroom.

Isn't it ironic that every elected official in this state, irregardless of party, talks about aspirations for our children. Well, our teachers have aspirations also. They want professional choices. Teachers are a dedicated profession, I am proud to be a teacher, 13 years in the classroom, and I look forward to the day that I can return.

I would ask the members of this House -- how can our children ever see those dreams and aspirations become reality if we, tonight, shut forever the door for our teachers and their own aspirations? How can the children ever reach theirs?

Other states are watching our action, watching our vote tonight -- some have even said that the pressure came from outside of this state to kill this certification law. The comments of the House Chairman were of no surprise to me this evening, because if you have followed those other states, the attempts towards reform and to improve the teaching profession, the parent organization NEA, has been right in the forefront sabotaging those reform efforts.

We have heard here on the floor that we need uniformity and, as that Kennebunkport teacher said, "Another word for uniformity is mediocrity." I do not think that we want mediocrity in Maine education. Do we want to slam the door shut on the professional aspirations of our best teachers? I would hope not. Are we going to vote yes tonight for excellence in teaching, for aspirations for our children -- I would hope so. Tonight is not the time to be timid, this is not the time to step back from reform.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I certainly appreciate the minority leader pointing out that this is not a night to be timid and I hope that he will keep that in mind.

The statement was made that teachers are a dedicated profession on the one hand and yet you will

hear, if you listen to the minority leader and to others, you would get the idea that teachers are afraid. I don't understand how they could be one and the other.

I understand and appreciate the comments the minority leader has made about the teachers of Kennebunkport, but I would submit to him and to the others, that I also listened to teachers around this state and the teachers of my own city of Westbrook are very, very strongly opposed to this level. They aren't afraid of progress, they are a very progressive bunch of teachers. The State of Maine has excellent teachers. We have a very good group of teachers in this state and I submit to you that, in fact, they are as anxious for improvement, as anxious for progress as any other group.

On a percentage level, I would submit to the minority leader that, on a percentage basis, the number is probably just as high of quality teachers as it is in any other endeavor and I guess I would even submit this fine gathering here in this House.

It really bothers me to hear the minority leader continue the kind of things that have been in the editorials that nobody can defend against because there are no names attached. The constant exclamation of fear, the same newspapers that publish these editorials that talk about teachers being afraid of progress are the same one's that publish on a daily basis. Something that is good now and has been good for years in the State of Maine, good progressive education, good outstanding programs, fine young people, and I submit to you that you in fact came from many of those same systems, and I am not so sure that we are quick to admit that we got such a very poor education.

I hope, as a matter of fact, that the good Representative from South Portland, (one of the good Representatives from South Portland) Mr. Nicholson, would submit that I certainly didn't submit to mediocrity when I had his daughter in school, taught with his wife and taught many fine young people in the city of South Portland.

It is one thing to feel strongly about the Master Teacher but to be opposed to it because you think teachers are opposed to progress is absolutely untrue. To have the comments or the inference made that somehow the Maine Teachers Association is controlling the Education Committee or anybody else, is ridiculous and I think I can speak for the Education Committee for both sides of this issue.

Probably, Mr. Speaker, in a calmer moment, I would want to talk on a couple of other things but I felt that very important to respond to the previous speaker.

I would like to call your attention to one other item that you recently received from Representative Norton from Winthrop, a very fine statement on certification and staff development. I don't know whether or not you still have it in front of you but I have kept it in front of me since the day it was put on my desk.

The first statement is "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."

I will interrupt his statement just a minute to point out it is very interesting to me to hear some of the same people that -- at least in the short time I have been here -- pushing and shoving for local control, now somehow, seeing this item which in my judgment is a local control issue, all of a sudden

now, local control isn't quite as important as it was. When we were talking for instance about teacher salaries, somehow teacher salaries were a local control issue, why isn't this one?

Mr. Norton goes on to say, "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."

As I said in the committee when I made the motion to eliminate the Master Teacher level -- we have an Education Reform Act that 98 percent, and perhaps even 99 percent of it, is exciting and working and has met the approval of every facet of the public that you can imagine. We have one small segment that has caused a lot of concern and not just among teachers, but among administrators as well. The statement about the public having this be a negative reaction to the public, I would submit that the public knows and understands about this and is concerned about it that I will match any number that anybody in this group can match from the public that is concerned, is aware of it and knowledgeable, is just as much opposed to it as I am.

I think it is very important that we keep those factors in mind as we go down through this particular area.

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

Representative BOST: Mr. Speaker, Ladies and Gentlemen of the House: In response to an earlier speaker, the frustration and anger that Representative Murphy speaks of is instead felt by the majority of the Education Committee due to the outright distortion of this issue in the press over the last few months. One of those distortions, which was mentioned by that speaker, was that teachers have not been polled, they have not been asked, they don't know. Well, that simply is not so.

Let me quote from Data Intersearch Corporation's accumulation of data from May, 1987 and I will pick two items from that survey. 300 teachers at random, were polled from Kittery to Fort Kent. The question was asked -- would quotas be placed on the number of teachers who could receive the Master Teacher certificate? 231 said those would occur, 50 said they would not occur, 19 said they didn't know.

Secondly, and I refer to this data, last week, -- question -- do you favor or do you oppose the establishment of a Master Teacher certificate? Out of 300 teachers polled, 256 said they opposed it, 11 said they were unsure, 33 favored.

Just as there are some teachers' testimony which was referred to earlier who liked the idea of Master Teacher there are many many more, I submit to you ladies and gentlemen of the House, that have discovered it is not all that it is claimed to be. Let me quote from just a couple. Portland Teachers Association: "The Master Teacher drains scarce resources to a very few away from woefully underpaid teachers. We have to have the courage to admit that one part of the experiment is a failure. 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. At our March 20th in-service day, only one teacher expressed support for the Master Teacher, 499 in opposition."



From Jane Warren and Rosalie Mosher, Co-Presidents of the Gorham Teachers Association: "We want to continue to work in an atmosphere that encourages teacher growth. We do not feel the Master Teacher section of the law is going to help Gorham continue to build a climate of professional cooperation. In fact, we think choosing a few of our peers to be Master Teachers would damage the good things already in motion."

Finally, I think that we need the benefit of a little historical perspective on the teacher certification debate here tonight. In 1982, the State Board of Education contracted with George Thomas Associates to develop a policy for teacher certification in Maine. They presented their report to the state board on October 22, 1982. It was endorsed by the State Board of Education on November 10, 1982 (I have the document in my hand). I would like to quote from that document for the Record, "Teacher Certification Policy Statement: Under the authority granted in Title 20 Section 59, the Maine State Board of Education hereby authorizes a policy for the certification of classroom teachers which has three major components:

1. Standards for two levels of certification:  
 Level 1 Certification. A two-year, non-renewable certificate for persons who have completed a four-year teacher preparation program with a liberal arts major in an institution approved under Maine program review standards.

Level 2 Certification. A five-year, renewable certificate for persons who have completed two years' teaching in an approved beginning teacher support program.

2. Requirements for cooperative arrangements between institutions of higher education with approved teacher preparation programs and local school systems.

The third tier which we are now debating did not appear in those policy recommendations. They appeared much later as the consequence of considerable political pressure.

Ladies and gentlemen of the House, the majority of the Education Committee, and I believe the majority of the people in this body, do not want mediocrity at any price. We want the very, very best for the children of this state. We believe that the original policy statement, which I just read, should stand and that a two tiered teacher certification process be implemented.

I again urge you to vote against the pending motion to indefinitely postpone.

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

Representative WENTWORTH: Mr. Speaker and Members of the House: A short time ago, I had intended to vote no against the professional third class project. But it is the custom of the York County Delegation to meet once or twice a year with the educators in their county. A week or two ago, we met with the superintendents, the principals, some teachers and the presidents of two teachers' organizations. They pleaded with us to give them one more year to finish the project to see how it works. It was unanimous in their request.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Soucy.

Representative SOUCY: Mr. Speaker, Ladies and Gentlemen of the House: Just to relay a conversation that I had with my former superintendent, I asked him about this program and he said their group had been working very hard since 1984 and they feel that they have got the pilot project or support staff for the beginning teacher. In the last year and a half, they

worked very hard to take care of the professional teacher and now they feel kind of frustrated if we eliminate this third level.

A few days ago, I stood and opposed eliminating the second tier and I have heard nothing today that has changed my mind. As a matter of fact, probably the only people that have changed their mind on this issue, and I will be very blunt, this is a union issue. Former president of the Maine Teachers Association, Tom Harvey, was around here in 1983, he was around here in 1984, he was a member of the advisory committee on certification. He was adamantly opposed to any changes in the reform act. Now something has happened, what is it? I don't know. I think all we are doing is extending for one more year to see if these programs are successful or not, that is all. It is not a question of money.

I would pose a question -- is there any Master Teacher who has been paid more money as a result of having that certificate today in the State of Maine? There may be, but I am not aware of any. If anyone could answer that question, I would appreciate hearing the answer.

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

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I am not rising to answer the question but I am rising to make the comment that it is typical in my judgment -- and I hope this won't be considered too much of an insult -- of an administrator to assume that, everytime a teacher speaks out against something, that some higher organization is controlling that decision. I have much too much confidence in the teachers of this state as people, as citizens, as contributors to the growth of our young people, to believe that they are being dominated by any one individual any more than I would submit that all superintendents are dominated by the Maine Superintendents Association or the School Board Association. Why is it, that on the one hand that we can assume one thing, but when it is convenient for us to assume this, that the teachers are dominated by MTA, all of a sudden that becomes the favorite thing to do?

I submit this is the feeling of teachers around the state, teachers, good quality teachers.

The statement was made earlier by a previous speaker about quality teachers. Maine children have quality teachers, that was his comment, that he wanted our children to have them. I submit that we have quality teachers and we continue to have them. That quality group of teachers are saying that this one segment of the Education Reform Act is not what it appeared to be at the beginning and they have changed their mind. Surely no one in this body should be opposed to anybody changing their mind.

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

Representative KILKELLY: Mr. Speaker, Ladies and Gentlemen of the House: Over the past two years, the state has pumped thousands of dollars in the Master Teacher pilots. Educators have invested many hundreds of hours, many of them without compensation. Initially, there were 3,000 applicants and that has dwindled down to 52 Master Teachers.

Following up on what Representative Handy has stated, what has made those 52 Master Teachers -- commitment, creativity, judgment, leadership, integrity. Those all sound wonderful, how could

anyone be against that? I believe that all teachers should possess those qualities.

Master Teachers, according to the pilot sites, possess more of those qualities than professional teachers. What does that mean on a scale of one to five? Commitment, does it mean that you work late every night rather than being home to deal with your family or other non-school activities whether in your church or community?

Creativity: If your primary classroom is filled with art projects, paint and clay, and 20 noisy children all doing different things -- are you creative or unorganized?

Leadership: Is that leadership in the school, girl scouts, boy scouts, or state government?

Judgment: How do we judge judgment? Shall we do an instant replay or a Monday morning quarterback routine? What would you do in this situation? Remember, the score is one to five.

If you were a teacher working hard and going through this process, how would you feel if you received a one in judgment or maybe a one in integrity? If you were on the team, how would you feel rating your colleague on these items? How well would you, as the candidate or the team member, work together after that process?

I believe it is more important and appropriate for us as a legislature to assure that all teachers are good teachers and all teachers have access to staff development. The money and time that is available is a limited commodity. Doesn't it just make common sense to support a strong certification process for all new teachers and then for all teachers as they need to be recertified? Doesn't that, in fact, benefit all of Maine students?

I would like to believe that as I vote to spend the hard earned dollars of taxpayers of my district in this state that I am watchful of getting the best bargain for that dollar. It is my strong belief that benefitting all students and all teachers is that bargain. Another year of piloting will not resolve the issues of Master Teacher nor will changing the title to professional two.

I applaud the staff development program in Kennebunk. It is my understanding that project has been going on for many years prior to the Master Teacher pilot process. I would assume that it would go on for many years afterwards even if this bill passes. That is the kind of local level, local control, that I think is important on this particular issue.

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

Representative BOTT: Mr. Speaker, Men and Women of the House: If there is any one conclusion that can be drawn from carefully considering this debate that is taking place tonight, it is that the jury is still out on this research program. We have heard very compelling arguments on both sides of the issue. I submit to you that we need additional data on this program before we close the door on it. What is so awfully wrong with extending it one more year? I urge you to vote in favor of the pending motion. It may be that the Master Teacher program is flawed but if so, we will have given it a shot for one more year and gotten more research. If not, then we may have stopped ourselves from closing the door prematurely on what could be a major educational development for years to come.

Representative Bost of Orono was granted permission to address the House a third time.

Representative BOST: Mr. Speaker, Ladies and Gentlemen of the House: In response to my good friend from Orono, Representative Bott, the answer to

his question is that we did have the data. We had data enough to make, over an eight week period, the judgment that we did as a majority of 10 on the Education Committee and report out our findings.

I wanted to make certain the good gentleman from Kittery, Representative Soucy, received an answer to his question. Representative Soucy, to my knowledge, no teacher has yet been compensated for being a Master Teacher. That is because the role is still in the state of flux.

I ask members of this House, whether assuming all of the additional responsibilities that are built into this role and the role itself is ambiguous, do you expect that those responsibilities will be carried out without compensation? I think we need to be realistic about that. The Education Committee asked that question many, many times of itself and of those that testified before our committee. The answer, of course, is no, they do not expect to perform those tasks for no money. So, Representative Soucy, that is the conclusion of the Education Committee, the answer is no.

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

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I will try not to be emotional. There has been too much emotion thrown around here in this body already today. Education is too important a subject to be sidetracked by emotional issues. What I will try to do is give you a couple of what I consider concrete issues that I thought about in making my decision. One is hypothetical and one is completely factual.

The hypothetical program that I would like to give you is this: Let us say in Greenville, which has a staff of 35 teachers, give or take a few, that we have a ten teacher turnover, now you say it is impossible to have ten teacher turnover, not in the wonderful cold climate of Greenville it isn't impossible.

Let us say that we also have five teachers who are pursuing Master Teacher certification. That means that we must have 15 teams to take care of those 15 teachers. That means that there must be 45 teachers on those teams. Now, remember those ten provisional teachers can't serve on the teams. They are too busy learning to be teachers in the first place. So that means that we are going to have to have other teachers serving on more than one committee.

Let's say that they worked 40 hours over the year -- where do I get the figure 40 hours? That 40 hour figure came from what one pilot project site said that they spent for a support team. 40 hours for those people serving on those support teams figures out to over 1 year, and I repeat, over one year, of teaching time. I grant you that not all the time that those teachers will be serving on those committees and helping other teachers will be taken out of their classroom work, but it will be taken out of the time that they could do their preparation for their classroom work, out of the time that they might even like to spend with their wife and five children, because you do have a responsibility to your family as well as to your students that you are teaching.

What I am trying to show you is that this is a very important project. You are also going to be asking me if I am one of the members of the support team to pass judgment upon my fellow teachers that I am working with. If you have ever worked in a small system, you know each teacher very well. I think that is an important piece of business you are sticking on my shoulders. I will take it very seriously, that means that I want to spend as much

time as I possibly can before I say to a teacher, who has spent four years in college, who has spent two years as a provisional teacher, I want to be extremely certain before I say to them, no, you do not qualify to be a professional teacher and wash six years of their life down the drain. That is an awesome responsibility. You put it on me, I will accept it, but I am going to make sure that I spend the time that is necessary to arrive at a very well thought out decision. That is one case. That of course, is the hypothetical case.

The factual case is that I taught at a school system called PCHS, it is a high school in Guilford, Maine. I talked to some of my buddies, not too long ago, and believe it or not, we on the Education Committee do talk to teachers once in a while. I talked to some of my buddies back in Guilford and they told me that the school board had allocated -- now get this -- \$60,000 to implement the teacher certification law for the next year. They had also allocated \$30,000 for the next year. Now, if you know anything about school boards, as I know something about school boards, having been a teacher and an administrator, you know they just do not throw dollars around easily. So quite obviously, Guilford thinks that they are going to have to spend a considerable amount of money for the teacher certification law. We have been told, to the best of my knowledge in committee, that it is going to cost from \$100 to \$400 for this process to take place. Guilford has 60 teachers. Now, I am a history teacher, not a math teacher, but I can do simple math. \$60,000 for one year for 60 teachers figures out to \$1,000 per teacher. That is considerably more than what we have been told from \$100 to \$400.

One other point that I would like to make on that -- Guilford also has already spent \$6,000 this year hiring the University of Maine to come up and teach their teachers how to handle this job that we are going to be placing upon their shoulders.

I guess what I am trying to say is, I can't stand here and tell you whether Master Teacher will solve all the evils that we profess to see in education. I can't tell you that it is good, bad or indifferent with any certainty. All I can tell you is from my experience as a teacher, from my experience as an administrator, and I am not in MTA's hip pocket, but from my experience in dealing with this, I do not believe Master Teacher will work. I think it will do more harm or has the potential to do more harm to the teaching profession than it does good. I could be wrong -- my students have told me many times I was wrong and I suppose I can be wrong in front of this House. But the fact still remains that this is an important issue, one which we must look at as emotionless as possible, and decide with the best knowledge we have. The best knowledge I have says -- do away with it.

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

Representative LAWRENCE: Mr. Speaker, Men and Women of the House: I just heard the statement by Representative Gould that proves (seems to me) why the pilot studies ought to be continued and that is the decision by some in the Education Committee has been made on the basis of opinion and not on the basis of research or the basis of findings. The whole issue here is that we are asking that these pilot studies be continued so that one can get the kind of data that he and the rest and the kind of information and the kind of experiences that would convince us, once and for all, whether this is a valid concept or whether it is not.

I would like to state to you why I continue to oppose L.D. 1629 and why I am in favor of and support the indefinite postponement. It undermines the development of teaching as a profession. It denies teachers the opportunity to accept responsibility for professional growth. It accepts opinions as conclusive evidence to discontinue the pilot studies. It declares that the third level of certification is invalid without orderly evaluation of the pilot studies. It ignores certification as a licensing process. It denies teachers a responsible role in decision making.

I urge you to defeat L.D. 1629 and support the motion to indefinitely postpone.

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

Representative FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: Nothing is easy about the school reform act. I sat on a committee and tried to find \$27 million plus to pay a stipend. It was traumatic cutting some programs that I thought were worthy but we made a commitment and I kept that commitment. I think local school boards, local city council people, selectmen, have been at odds and fighting amongst themselves on salaries and budgets. It has not been easy. I believe that we put together a reform act that was good. In a very short time, we will look at the whole package.

The teachers in my area speak of respect and they need it, they want it. My teachers don't want to be the ones that make the first break in the reform act. They came out in favor of something that they thought could work and went along with it. I really want to say to the teachers in the State of Maine, your legislators kept your commitment and we are going to keep ours.

I am going to vote to indefinitely postpone that bill because I think that is what the people out there want to hear. I think that they want a commitment from the teachers, from the legislature, for the best education for our children.

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

Representative VOSE: Mr. Speaker. I move the previous question.

The SPEAKER: For the Chair to entertain a motion for the previous question, it must have the expressed desire of one-third 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-third of the members present and voting having voted for the previous question, the previous question was entertained.

The question now before the House is, shall the main question be put now?

The Chair recognizes the Representative from Canaan, Representative McGowan.

Representative MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: Is it true that on a motion to move the question that any member of this body may debate that motion for five minutes?

The SPEAKER: The Chair would answer in the affirmative.

Representative MCGOWAN: And that if all of the members of this House debated that, then it would take a considerable amount of time?

The SPEAKER: The Chair would advise the Representative that the only question that they may debate is whether or not the question should be put now and not the question before the body.

Representative MCGOWAN: Mr. Speaker: I would hope that the members of this body would not vote to move the question. It has been my position sitting

in this body for the past seven years to never, ever shut off any person's intent to debate any piece of legislation. I hope that when I get done speaking, someone else will get up and debate the issue of whether or not we should move the question so that we may make a point to the people who are watching us from the outside that we believe that no amount of debate at any time, at any point in our legislative careers, should be limited by someone voting to move the question.

I would hope that we would send a resounding no, even though we have spent long hours -- the hours will not get any shorter in this body in the next few weeks -- that we will not move the question to stymie debate in this House.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: I concur with my good friend from Canaan, Representative McGowan. As someone who believes very deeply in the democratic process and who has, over his short political career, served as a moderator of town meetings, school budget meetings, those processes which I feel are the purest form of democracy and who resists those motions when they are made in those bodies, I really would stand here tonight and urge this House not to move the question.

Ladies and gentlemen of this House, we all have the right to speak on our views on these issues. I would ask this House to think before it acts tonight to cut off debate to allow everybody to have their say on this issue, it is an important issue. The motion to move the question is simply choking off democracy in my opinion. I will vote with the Representative from Canaan on this issue.

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

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I don't think there is one vote that has been changed by the debate so far. I think we have prolonged this -- we have been at it for almost an hour or hour and a half and I don't think anybody is going to add one single solitary thing to the debate. I would hope you would vote to move the question, the main question.

The SPEAKER: The question now before the House is, shall the main question be put now? This is debatable with a time limit of five minutes by any one member. Is it the pleasure of the House that the main question be put now?

A vote of the House was taken.

41 having voted in the affirmative and 79 in the negative, the main question was not put now.

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

Representative RICHARD: Mr. Speaker, Ladies and Gentlemen of the House: My thanks go to Representative McGowan and Representative Mayo for permitting me this opportunity to speak.

Education in Maine is not going to improve until there is an improvement in our teaching. I, too, believe that there are many excellent teachers in Maine. My 30 years in education also told me that all of our teachers in Maine are not excellent teachers, many can stand improvement. I hope that we would keep this in mind.

I believe really and truly that the main issue here is not the merit or the lack of merit of the Master Teacher plan but whether or not it should be permitted an additional year in about three pilot sites in which to prove itself. If we are truly interested in the students and teachers of Maine, why not give this a chance?

We constantly hear in the House the statement of -- do not change the rules in the middle of the game. I think we have gone just a step further tonight, we are going to call the game off after the first inning or first period, I think that is wrong. That is like my saying to you folks, you are guilty, come on in tomorrow and we will rule on why we decided that. I think that is incorrect and I believe very, very firmly that this should be extended another year and, therefore, I am voting for indefinite postponement.

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

Representative DIAMOND: Mr. Speaker, Men and Women of the House: In sitting here and listening to the debate that has gone on for well over an hour now, I was trying to put together what the bottom line is, what the ultimate question before this body is as we vote whether or not to enact the legislation before us. The question is, whether or not we are going to adhere or abide by the actions of the legislature in 1984 in order to implement the educational reforms that we felt were necessary to improve the quality of education in Maine.

In listening to the Representative from Ellsworth, Representative Foster a little while ago, I realized that there were a number of people in this body who were not here, who did not serve in this legislature in 1984. By my estimate, that covers about a third of this body.

It has been said many times on the floor by the proponents of the Master Teacher concept that we intended to install this three tier system, that it was our intent and we were somehow backing off on that commitment. That was not the case.

I was involved in it to a lesser degree than some of the other people who have spoken today but certainly I remember full-well what took place at that time. I remember that we talked about piloting these positions in order to see whether or not they would work.

There was a recommendation that the law that was passed said that a recommendation would come to the legislature in this term to decide whether or not those efforts were successful or unsuccessful. The Education Committee, overwhelmingly, has said that they have not been successful. They did that based on the input given them by the people around the state, some of whom were involved in those processes, some of whom were not. The conclusions that were presented are mixed. To some, they feel it was a success, to others, they feel it was not a success.

The closest thing to a consensus that has come as a result of these pilots is that there is no consensus -- that the concept of Master Teacher may be good but to a majority of the people involved, it should remain just that, a concept.

We have looked at this, we have discussed it for over an hour today. We discussed it in the past. The one thing that we do know is that we wanted to try this out to find out whether or not it was going to work and that this legislature was to make a recommendation as to whether or not we were supposed to hold on to it or whether or not it was prudent for us to do so.

I think that the Committee on Education has done its work, they have looked at the research, they have looked at the experiences of the communities around the state and they said, this is not something that is in the best interest of education in Maine. Some may like it, for the most part, most do not.

If this legislature is going to adhere to our commitment in 1984, I think we have to look at what that commitment was. That commitment was, let's

examine it, if it proves to work, we will go with it. If it does not prove meritorious, then we should abandon it and do what is in the best interests of the children of this state and the schools of this state. I think the evidence that has been provided to us is conclusive, that it is a very divisive issue and it is one that will remain divisive as long as it is with us. For that reason, I hope that you will vote against the motion to indefinitely postpone so that we can, in fact, enact this law.

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

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I just had to perhaps clarify or some will think it is a rebut.

To the good Representative from Bangor, Representative Diamond -- if it were the intent of the committee at that time to look at Master Teacher and then make a decision here in this session, I don't believe we would have a bill in to take out Master Teacher. I think in that case I would be putting in a bill to put in Master Teacher. If you look very closely, this bill eliminates it, it does not add it in. It was our intentions to put those three levels in, pilot them, and then from the pilots, we were to make recommendations on how to improve them. It was not a thing -- let's try Master Teacher and see if it works or I don't think we would have had it in the law.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: Sadly lacking in much of our debate last week and again tonight is the mention and the most important reason for our schools -- Maine children. No one is lobbying in the halls for them.

Continuing to pilot the Master Teacher concept is an effort to improve the quality of education for our students who deserve positive change. I believe with the Representative from Kittery that the attempt to eliminate Master Teacher is now a union issue, not an education issue. It is an effort to thwart any attempt to differentiate between the quality of our teachers.

There have been suggestions over the past two years that, because of increased and unexpected costs to local communities, attempts would be made to unravel the Education Reform Act of 1984. One of those groups arguing the most strenuously and most stridently against undermining the reform package has been the Maine Teachers Association. I find it ironic that now that group itself, the MTA, is advocating the first major assault on the reform.

The proposal before you today -- to eliminate the third level in the certification process is premature and ill-advised. If every special interest group decides to try to eliminate the parts of the reform package it finds distasteful, we could have nothing left.

For example, what about superintendents who are displeased with the results of their schools on the student assessment tests year after year? Will they too organize and blitz the legislature to remove the testing requirements from the reform package?

What about a school system which finds it difficult to meet the lab science requirements because of space limitations? Will that school petition us to change that requirement in the law? There are many other examples.

The action we are considering today is the first major attempt to undo what we have accomplished. If we make this change, I predict that others will follow.

I urge you to vote for the students in our state by supporting indefinite postponement of this bill.

I also would like to thank Representative McGowan for his position earlier.

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

Representative RICE: Mr. Speaker, Ladies and Gentlemen of the House: I rise with great reluctance today. On May 20th, I voted in opposition to the Master Teacher and I shall do the same today. I voted for reasons that I guess are entirely different from most of you. I was not lobbied by the MTA, I guess they haven't found me yet. I made my decision on three interviews (if you will so allow me) -- I interviewed a retired teacher, who in my opinion, has achieved the Master Teacher because of her dedication and success in the classroom. I asked and talked with her at great length about her feelings. I asked her how she felt honestly, sincerely, about the Master Teacher. She gave me a sentence that is priceless. "A title does not a teacher make."

I talked with a teacher who is presently teaching, someone who I also have respect for, who I did not feel was a highly union aligned teacher. Did she support the Master Teacher? Her answer -- no.

Thirdly, yes, I thought about my children. I think about them frequently when I make decisions in this body. I thought about the teachers that my two sons have had in ten years in the public schools. They have had some good teachers, they have had some poor teachers, but they have had one outstanding teacher. I thought of the qualities that made that teacher outstanding to me as a parent, as a graduate of UMO in the college of education, and as a certified teacher who has let her certification lapse. What made her outstanding? She is there early in the morning, she is there after school when they need her. Each child is an individual in that classroom. She recognizes problems and individual differences. She handles discipline in a uniform manner and I could go on and on. That is the outstanding teacher in our school. I think we have gone beyond the point where we can say that this legislature can determine and can make better teachers. Folks, I don't think we can.

I guess the question is, will the Master Teacher program provide us with the best teacher? I guess my answer has to be no.

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

Representative NICHOLSON: Mr. Speaker and Members of the House: I am just a kid on the block when it comes to education. At the same time, I realize the importance of it just like everybody else in this room. We have people definitely for or against indefinitely postponing, I am for indefinitely postponing.

Just to go back to what Representative Richard from Madison said, I think he summed it up very nicely in a very professional way of right where we are at this time.

I heard earlier my teacher coach mentioned. I have been surrounded all my life, starting with my Dad on the school board in my local town, back in the 20's and 30's, relatives, cousins, sons-in-law, you name it, they have been in education. We all know the importance of that. I am saying to you that I do not think, after all the time and study that went into the reform back in 1984, not to complete it, because who knows what just might or might not come out of it. I think we have to complete the job and my teacher-coach says indefinitely postpone.

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

Representative PARADIS: Mr. Speaker, Men and Women of the House: This state is not in the business of doing staff development and supervision or evaluation of teachers, local superintendents are in that business. One hundred and thirty some odd superintendents in the State of Maine hire all the teachers, thousands and thousands of teachers that are now staffing our schools. So, let's give them the right and the power to continue hiring only the best Master Teachers, one and all.

I was teaching in a pilot teacher site and it was a very successful program because it is a good staff development program.

As a year book advisor, I couldn't even begin to think of doing that this year because I would have had to drop my year book activities and I find a lot of teachers in the same position. They are doing newspapers, they are doing all kinds of things and they would have to put everything on hold for a while. So, the decision, Representative Foster, was to be looking out for the children first.

Again, I urge our 130 or whatever superintendents to go out there and hire all these Master Teachers and maintain them.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative McSweeney.

Representative MCSWEENEY: Mr. Speaker and Members of the House: I didn't intend to get up on this bill. I have been in education all my life and things that Representative Paradis and Representative Rice said, good teachers, some bad, but they have a chance the first two years to get rid of these teachers or give them help to become better teachers. I think that the Master Teacher all depends on the person whether they want to go to work at six o'clock like some teachers do, they become the Master Teachers because they work, they are there at school and they have a good rapport with the children and they give the children what they need.

I am going to say this and I am not bragging. I used to get every kid in the school that most likely didn't want to go to college. I had to create things for them. Some of those kids went on to have jobs that some of you people will never have. One works for C & N, another runs the Canadian Lottery and so it all depends on the teacher, what he wants to do and how he wants to do it. Teaching is a big, big thing, it is a bigger job than anybody can really, really do. We have had two provisions of education and it has worked and the Master Teacher is very difficult to explain.

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

Representative BOST: Mr. Speaker, Ladies and Gentlemen of the House: I feel I have got to respond to an alarming assumption that has been bantered about here in the House tonight. The Education Reform Act was, admittedly, a major step in the right direction in this state. It has been touted as one of the major achievements of this legislature in the last four or five years. Let's not forget that the Education Reform Act of 1984 was not set in cement, its designers never intended it to be. It was designed to be flexible, it was designed to be modified, if necessary. Education reform is not a one-shot item, pass a law and education is taken care of. It didn't all happen in 1984. It is an ongoing process. All of education is. That is precisely the manner in which we must view it here tonight. Education is not a cost in the traditional sense. It

is an investment. It is not akin to filling a pot hole, it is investing in our children's future.

Let's also invest in our teachers who we have spoken so highly of here tonight and afford them the opportunity to grow professionally without arbitrary shackles as the Master Teacher designation implies. Don't ever forget that the key to educating our children is the quality of our teaching force. Let's give them the tools to do their job and to do it well, not an arbitrarily chosen few.

I urge this House to vote against the pending motion.

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

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I think the lawmakers of the state are putting skids under Maine's far-reaching 1984 Education Reforms. They have done so by caving in to political pressure from a single union the Maine Teachers Association.....

The SPEAKER: The Chair would inquire why the Representative from Lewiston, Representative Handy, arises?

Representative HANDY: I rise on a point of personal privilege. I take umbrage at the Representative's impugning the integrity of one or more members of this body.

The SPEAKER: The Chair would advise the Representative from Lewiston that the Chair does not see how the Representative from Gorham, Representative Brown, is impugning anyone's integrity.

Representative HANDY: Would the Speaker review the record please, at a later date?

The SPEAKER: The Chair is obviously aware of what the Representative from Gorham, Representative Brown has said. She is entitled to her opinion and I am entitled to mine as you are entitled to yours.

Representative Brown of Gorham may proceed.

Representative BROWN: Mr. Speaker: The MTA is opposed to anything even hinting at merit pay. Master Teacher recognition is supported by the State Board of Education, Maine Education Commissioner Eve Bither, Governor Brennan's Blue Ribbon School Panel, preeminent National Educator, Ernest Boyers of the Carnegie Foundation, not to mention the 111th Legislature.

The Education Committee has set a pattern of knuckling unto pressure. Other school related special interests will be quick to follow.

Surely, school administrators will wonder why should they accept tougher certification requirements when lawmakers were so quick to abandon the controversial top teacher tier. But their discontent will be nothing compared to that of local school boards. Hard pressed for cash to fund education reforms ordered by the state, school boards are bound to think it's worth a little pressure if lawmakers will agree to cut back on additional and costly graduation requirements in math, foreign languages, and science.

We are headed toward the end of education reform in Maine unless we, as a legislature, act now. Is that what Maine wants? I doubt it. Whenever they have had a voice, parents and taxpayers have asked for more accountability from educators, not less. There may be bugs in the 20 pilot programs across the state but more time is a reasonable request to work out the problems.

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 is the motion of Representative Small of Bath that L.D. 1629 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 84

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

NAY - Aliberti, Allen, Anderson, Anthony, Baker, Begley, Bost, Boutillier, Carroll, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Curran, Dellert, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Gould, R. A.; Gurney, Gwadnosky, Hale, Handy, Hepburn, Hickey, Hogle, Holt, Hussey, Jackson, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lisnik, MacBride, Macomber, Mahany, Manning, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; Norton, Nutting, O'Gara, Paradis, J.; Paradis, P.; Parent, Perry, Pouliot, Priest, Reeves, Rice, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Smith, Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Telow, Thistle, Tracy, Vose, Walker, Warren, Weymouth, The Speaker.

ABSENT - Hillock, Kimball, Marsano, Paul, Rand, Webster, M..

Yes, 52; No, 91; Absent, 6; Vacant, 2; Paired, 0; Excused, 0.

52 having voted in the affirmative and 91 in the negative with 6 being absent and 2 vacant, the motion did not prevail.

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

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

SENATE PAPER

Bill "An Act to Require Testing of Dioxin Levels at the Maine Energy Recovery Corporation" (Emergency) (S.P. 562) (L.D. 1679)

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

Was referred to the Committee on Energy and Natural Resources in concurrence.

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

SENATE PAPER  
Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Exempt Income of National Guard Members from the State Income Tax" (S.P. 336) (L.D. 991)

Signed:

Senators: DOW of Kennebec  
SEWALL of Lincoln  
Representatives: CASHMAN of Old Town  
MAYO of Thomaston  
NADEAU of Saco

INGRAHAM of Houlton  
SWAZEY of Bucksport  
SEAVEY of Kennebunkport  
DORE of Auburn

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-100) on same Bill.

Signed:

Senator: TWITCHELL of Oxford  
Representatives: JACKSON of Harrison  
ZIRNKILTON of Mount Desert

Representative DUFFY of Bangor - of the House - abstained.

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

Reports were read.

Representative Cashman of Old Town moved that the House accept the Majority "Ought Not to Pass" Report.

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

Representative ZIRNKILTON: Mr. Speaker, Men and Women: I am not going to sit here and debate whether or not this proposal would be good or bad tax policy. I just want the Record to show that the National Guard in the State of Maine is having a serious problem with retention and, as many of you probably are aware, the funds that we all receive from the federal level, is dependent upon the number of guardsman that we have in terms of our enabled capacity within the numbers in the guard. It is an important problem that we should all be aware of that there are a number of other states that have enacted legislation similar to this which has resulted in their numbers being raised back up and their problems being alleviated. Perhaps we can address this at a later date. I just wanted you to be aware.

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

Representative JALBERT: Mr. Speaker, Men and Women of the House: As a member of the Committee on Aging, Retirement and Veterans, I and my other colleagues on that committee, have been the greatest supporters of benefits for members of the National Guard. We have had quite a few bills that have come before our committee which would give benefits to members of the National Guard because benefits have been denied such as reemployment rights, rights where they have been called out by the Governor on an emergency and many others. This came as a surprise, I probably should have taken a better look at the daily calendar as each bill came in because this particular bill exempts members of the National Guard.

I have some doubts about doing this at this time because I think it needs a little bit more study. I agree with the Representative from Mt. Desert, Representative Zirkilton, that we should do as much as we can to encourage people to join the National Guard. That is the basis of our whole national defense.

I repeat again that I am a big supporter of the National Guard. I am not a member of the National Guard and have never been. At this time, I believe we should take a little bit of time and study this because this involves just a little bit more than meets the eye. There are many people who have full-time jobs and are also members of the National Guard. There are many people who are retired from the Navy, Army, and Marine Corps who have approached me in my hometown because we do have many retirees in Lisbon. There are people who have retired from the Brunswick Naval Air Station, which is a credit to us, because after being all over the country, they decide at retirement to live in Maine. Many who have

approached me have said: "Why is it, when I have served 20 years in the Armed Forces, I served at the Brunswick Naval Air Station for the past two or three years and then when I decide to retire in Maine, I have to pay state income tax on the money that I receive from my naval pension? It is bad enough that those young men and women, who went into the service and stayed in the service because they were promised a pension and many of those young people could have gone out and stayed in civilian life and made twice as much money as they did in the military. But they had that incentive that they would have that nice pension and would live a good life when they retired but now they are being taxed on it. It is bad enough that the federal government is bleeding the daylights out of us but the State of Maine is also doing it. I think if we were to do this for the National Guard, which I am not against, we should always try to do something for the other retirees.

I, as a retired state employee, can never forget that when they passed the state income tax and other state retirees would chuckle at this -- one of the provisions when they passed the Maine income tax was that any state retiree would not have to pay income tax on their state pension. When I retired, I paid and many people did. Two or three years ago, they suddenly woke up and said that the state retirees should not have been paying income tax because it was in the original provision. The Supreme Court ruled that it would cost the state about \$40 million to pay back into the State Retirement System.

I would say at this time, I am still a great supporter of the National Guard, but I think I agree with the Representative from Old Town -- we should not pass this at this time and study it a little bit more.

Subsequently, on motion of Representative Cashman of Old Town, the House accepted the Majority "Ought Not to Pass" Report in concurrence.

Non-Concurrent Matter

Bill "An Act Relating to Terms of Office for Trustees of the Kennebec Water District" (H.P. 1201) (L.D. 1638) which was passed to be engrossed in the House on May 20, 1987.

Came from the Senate passed to be engrossed as amended by Senate Amendment "B" (S-101) in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

An Act Relating to the Membership of the Atlantic Sea Run Salmon Commission (H.P. 999) (L.D. 1345) which was passed to be enacted in the House on May 1, 1987.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-97) in non-concurrence.

The House voted to recede and concur.

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative BOTT from the Committee on Banking and Insurance on Bill "An Act to Promote Financial Responsibility of Motorists" (H.P. 462) (L.D. 617) reporting "Leave to Withdraw"

Representative CURRAN from the Committee on Banking and Insurance on Bill "An Act to Change the Manner in which the State Seeks Assurance of Motorists' Financial Responsibility" (H.P. 767) (L.D. 1030) reporting "Leave to Withdraw"

Representative CURRAN from the Committee on Banking and Insurance on Bill "An Act Regarding Conflict of Interest" (H.P. 408) (L.D. 542) reporting "Leave to Withdraw"

Representative GARLAND from the Committee on Banking and Insurance on Bill "An Act Concerning Mandatory Motor Vehicle Liability Insurance" (H.P. 32) (L.D. 33) reporting "Leave to Withdraw"

Representative GARLAND from the Committee on Banking and Insurance on Bill "An Act to Require Motor Vehicle Liability Insurance" (H.P. 643) (L.D. 866) reporting "Leave to Withdraw"

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

CONSENT CALENDAR

First Day

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

(S.P. 437) (L.D. 1317) Bill "An Act to Modify Certain Sections of the Medical Examiner Act to Control Public Dissemination of Information Placed on the Death Certificate by the Medical Examiner in Cases under Investigation by the Attorney General's Office" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-99)

(H.P. 1130) (L.D. 1540) Bill "An Act Amending the Assumed Payroll of Partnerships and Sole Proprietors in a Self-insured Group" Committee on Banking and Insurance reporting "Ought to Pass"

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

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

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative MacBRIDE from the Committee on Judiciary on Bill "An Act to Accord Qualified Immunity from Tort Liability to Employers Giving Recommendations about Current or Past Employees" (H.P. 777) (L.D. 1049) reporting "Leave to Withdraw"

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

CONSENT CALENDAR

First Day

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

(H.P. 893) (L.D. 1194) Bill "An Act Relating to Adult Education" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-201)

(H.P. 1026) (L.D. 1384) Bill "An Act Relating to Private Citizens being Reimbursed by Local Police Departments in Certain Prosecutions" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-202)

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

CONSENT CALENDAR

Second Day



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

(H.P. 1128) (L.D. 1538) Bill "An Act Allowing Restricted Disclosure of HTLV III Test Results within a Federally-mandated Military Testing Program"

(H.P. 847) (L.D. 1138) Bill "An Act to Increase Educational Opportunity for Economically and Educationally Disadvantaged Residents" (C. "A" H-193)

(S.P. 351) (L.D. 1043) Bill "An Act to Ensure Accessibility to Mental Health Services for Deaf Persons"

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was Passed to be Engrossed in concurrence and 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 Clarify the Site Location Law" (H.P. 1231) (L.D. 1681)

Bill "An Act to Ensure Sound Forest Management of Biomass Fuel Wood Harvesting Operations" (H.P. 1230) (L.D. 1680)

RESOLVE, for the Public Utilities Commission to Study the Allocation of Water Supply Rights (Emergency) (H.P. 1229) (L.D. 1678)

Bill "An Act to Appropriate Funds for New and Existing Services Relating to Teen Pregnancy" (H.P. 1232) (L.D. 1682)

Bill "An Act to Establish a School Bus Safety and Driver Training Program" (H.P. 1233) (L.D. 1683)

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

PASSED TO BE ENGROSSED

Bill "An Act to Increase the Minimum Wage" (H.P. 869) (L.D. 1170)

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

Representative McHenry of Madawaska offered House Amendment "A" (H-188) and moved its adoption.

House Amendment "A" (H-188) was read by the Clerk. The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: This amendment just puts on the fiscal note that was needed and also some technical language the committee had wanted to put in and forgot to.

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Encourage Investment in the Development of Potato Varieties" (H.P. 678) (L.D. 911) (C. "A" H-183)

Was reported by the Committee on Bills in the Second Reading, read a second time, passed to be engrossed as amended and sent up for concurrence.

PASSED TO BE ENGROSSED

Bill "An Act to Make Consistent the Federal Veterans' Reemployment Law" (H.P. 1136) (L.D. 1546) (C. "A" H-190)

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

Representative Brown of Gorham offered House Amendment "A" (H-196) and moved its adoption.

House Amendment "A" (H-196) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended in non-concurrence and sent up for concurrence.

PASSED TO BE ENGROSSED

Bill "An Act to Make Allocations for the Operating Expenditures of the Intergovernmental Telecommunications Fund of the Department of Administration for the Fiscal Years ending June 30, 1988, and June 30, 1989" (Emergency) (H.P. 504) (L.D. 677) (H. "A" H-195 to C. "A" H-185)

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

The Chair laid before the House the following matter: (Emergency) An Act Creating a Study on Uniform Liquor Pricing and Other Factors in the Operation of the State Liquor Commission and the Bureau of Alcoholic Beverages (H.P. 1206) (L.D. 1644) (S. "A" S-83) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Diamond of Bangor, retabled pending passage to be enacted and specially assigned for Friday, May 29, 1987.

The Chair laid before the House the following matter: SENATE DIVIDED REPORT - Majority (7) "Ought to Pass" in New Draft under New Title Bill "An Act to Amend the Municipal Public Employees Labor Relations Law" (S.P. 557) (L.D. 1667) - Minority (6) "Ought Not to Pass" - Committee on Labor on Bill "An Act to Amend the Municipal Employees Labor Relations Law" (S.P. 132) (L.D. 337) which was tabled earlier in the day and later today assigned pending the motion of the Representative from Madawaska, Representative McHenry, that the House accept the Majority "Ought to Pass" Report.

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

Representative MCHENRY: Mr. Speaker, Men and Women of the House: I will try to explain very briefly what this bill does.

In my mind what I see is going on presently, as the good Representative from Kennebunkport said, nobody is collective bargaining and we want to keep a balance. That is what he said in the House on this lockout bill. He said that we were tipping the fairness and the balance -- well, the best way that I can explain it is that we have our municipal employees with handcuffs (their hands are behind their backs) and then you have management with a big club coming in and saying, now let's make a deal. Let's negotiate here. It isn't balanced at all. What this bill does is -- we are going to take the handcuffs off. That is about what it does.

There are very good guidelines in this bill. It is a good bill, it's workable, there are many states that have enacted a similar bill and I sincerely believe that we should pass this bill. We are not asking for these people to go out on strike, we are asking for binding arbitration. We are asking these people to sit down and negotiate fairly and honestly in good faith. Presently, I assure you that municipal officials and school boards do not negotiate in good faith, not all of them, but a good majority of them just sit back and say, what can you do about it? If you don't like what we are offering

you, tough luck. There is nothing you can do about, absolutely nothing. You know -- they can drag this thing on for years and year if they want to.

So, I hope you would have binding arbitration. It would make the management side really negotiate in good faith knowing that somebody will decide that they are dealing with their employees fairly. There are points in the bill that will tell the arbitrator exactly what he has to look at. You have to look at the ability for the municipality to pay and there are a lot of good safeguards in the bill.

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

Representative WILLEY: Mr. Speaker, Men and Women of the House: Binding arbitration is not a new idea around here and not a new idea in most states.

Incidentally, the bill includes all municipal employees but, at the committee hearings, it became obvious it was a teachers bill and none of the other unions involved in local government showed up at all. It is obvious that it is a teachers bill and I think for very good reason.

In the first place, all local government is opposed to binding arbitration and for a very good reason because it bypasses local government. It bypasses local elected officials, both on the town councils, selectmen and on the school boards. They are bypassed completely through this process. It seems to me that the time frame mentioned in this bill drags the process on for an extended period of time. I tried my best to add up the figures that were enumerated in this thing through the various processes and they add up to approximately 120 days that are added on to the normal process of mediation, facting finding, and then finally arbitration. Yet, it has a deadline of May 1st. I don't know how May 1st could possibly work in that there is no starting point. There is no conclusion for what goes in initially at all so how you can add 120 days on -- let's assume that they get through the normal process in January, you are not going to get out of there by May 1st.

Some states have binding arbitration now. It doesn't work, obviously. Look at New York, for instance, they have more labor strikes there in municipal government than you could imagine but there is no binding arbitration. I doubt very much that this bill is needed at all for the simple reason that the Statement of Fact on the bill says that labor negotiations in Maine are working well at the moment but they might work better if we had binding arbitration. Anything that is working well shouldn't need a great degree of fixing, which this would do.

It has been declared illegal in a number of states. Some half dozen, I believe, have decided that binding arbitration is illegal because it takes the responsibility away from elected officials and gives it to people who are simply appointed to the post.

I urge you, strenuously, to defeat the motion before us and defeat this bill.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: A bit of communication came across our desks today in regards to the issue that we are addressing at this time. I am sure that the late George Meany is turning over in his grave at the statement made in the text of that communication as an argument against arbitration. The communication refers to compulsory arbitration, not binding arbitration and I did some research with the help of some people available to me and Black's Law Dictionary definitely defined what compulsory

arbitration is as opposed to binding arbitration. I stand here speaking in defense of an admirer of mine, the person who I thought was great in the labor unions with his rational judgment, and I take issue with that statement as an argument against binding arbitration.

Permit me to make one other evaluation please and that is the constant illusion and how we continually degrade the rights of teachers. Everyone else can have binding arbitration except the teachers and the municipal employees. I think that is something that should be addressed, not only as a condition of fairness in our democratic society, but because everyone should have the same rights as long as you don't infringe upon the rights of others. I honestly urge you to support binding arbitration and allow it to set the record for itself -- these are not radicals that are asking for this privilege, these are honest, down-to-earth employees servicing in the area of state and local government.

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

Representative CARTER: Mr. Speaker, Men and Women of the House: Binding arbitration is not an issue new to me. It has been before this body many times before. What I have said before, I will say again. You have heard Representative Willey tell you that it bypasses elected officials and I would like to call your attention to this little booklet that we have, which is known as the Senate and House Register. Section 22 on Page 8 states very clearly that no tax or duty shall be imposed without the consent of the people or their Representatives in the legislature. The elected officials on the local level are no different -- if you bypass them, you are taxing the people without representation. May I submit to you that is one of the reasons, but not the only reason, they had the Boston Tea Party.

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

Representative RUHLIN: Mr. Speaker, Men and Women of the House: In the past, the bill that is presently before us has been very divisive. I would hope that as you listen tonight, you will keep in mind that this is not the same binding arbitration bill that my good friend, who has great seniority in this chamber, has referred to. This is a novel approach for the State of Maine, a new approach that involves the utilization of the "last best offer." It is the first time that this approach has been discussed in these chambers. I hope tonight, when you listen to this debate, you will keep in mind that it is a brand new issue or a certain portion of it is a brand new issue. And that this is a new bill in the sense that we can now move forward and forget the rancor of the past and look to the future to give us better labor relations and labor negotiations within the State of Maine.

The key advantage of this bill with its proviso to have "last best offer" is that it intends to encourage voluntary local settlements, pure and simple. I think we should discuss for a moment what "last best offer" involves. We get into the arbitration system, and I hate to use this term after the last debate but I must, and it is a three tiered system. Can't help it, that is the way it is. You start labor negotiations with mediation -- one side says I want "A" and the other side says I will give you "B" -- mediation is encouraged, we presently use that system as part of the negotiating process. Mediation comes into play when a mediator will say, why don't you go in that room and rethink your offer, this is what they are offering you and so forth -- I don't think we have to go into a lot of history on

this -- but that, basically, is what mediation is. It is the voluntary getting together of the two parties to discuss their differences.

When mediation does not work, we go into fact finding. Fact finding is when you bring in a trained labor negotiator and they look at the facts involved and outline the dispute. After fact finding, were this bill to become law, if that is not successful and, by the way, in past experiences in other states, 20 states plus the District of Columbia, do have binding arbitration. Very few but some do, namely, Iowa, who does have a record to use throughout the nation as an example, does have binding arbitration with "last best offer" -- you then go, using that system to binding arbitration where the arbitrator is bound by this law to eleven specific areas that he can consider. No more, no less. The elected representatives of this state are doing the job they are elected to do, they have given outlines within which that arbitrator must stay. He cannot wander off on his own, he must be responsive to the elected officials of the state.

When he does that, following these eleven guidelines, he looks at the dispute and he must keep in mind that he cannot wander off, as I have just said, and he must look at it as an item by item approach. He cannot look at it as "A" package from this party or "B" package from the other party, he must look at it as a line by line approach. If parties "A" and "B" have come to an agreement of items four and five, he will not consider that. If they are still at loggerhead over item 7, he will consider that. What will happen then with item 7, party "A" will give its "last best offer." That means, once that offer is on the table, they cannot withdraw it at that point, the arbitrator does not have the right to split the difference between that and the other proposal. The other organization, party "B" in this case, presents their "last best offer" and the arbitrator's must stay within those eleven guidelines and he must either take plan "A" or plan "B." He cannot come up with a plan of his own, which would be plan "C." That is local control, pure and simple. Its ideas or proposals that were formulated at the local level are being responded at the local level, they were brought to the local level by elected officials. I think we do, in fact, strengthen local control while actually encouraging settlements at the local level and discouraging court pursuit. In so doing, history has shown, especially in the case of Iowa, the state that has established precedence in this, to actually discourage any wildcat or illegal strikes in the process because each party has had his big day before the arbitrator, under known rules.

Once the arbitrator has given his decision, and there may be up to three arbitrators by the way, there is a process to make sure there is a fair selection within the bill. Once that decision is rendered, the parties still have 10 days to come together and the arbitrator says, I win; you lose. I am willing, for the sake of magnanimity, I am willing to do this or do that. You still have a 10 day negotiating process should the two parties voluntarily want to do it. Should they do that though, that by itself, is also binding.

I think if we understand this new approach for the State of Maine, that we look at it that it does involve local settlements, it does involve local responsibility, it has been tested judicially in this nation, it has stood the tests of the courts, as my good friend said that we must and we do.

So, I ask you tonight to keep in mind that this is a new approach, that you give economic justice for

the State of Maine to operate. We have taken away from the people, the public employees of this state, the right to strike and I say we should not tie their hands behind their back when they come in for negotiation. This does give them their fair day for a fair hearing through the arbitration process.

I hope you will vote with the Majority Report this evening.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to vote against the pending motion on the floor.

The means for settling disputes is clearly in place in the law right now. We have in the law mediation, fact finding, and arbitration. There is no need for binding arbitration. Binding arbitration does truly pass by the authority of a local official. This truly is a bill that would affect teachers and primarily people in the educational field.

If you have a town meeting form of government, you present your budgets to town meeting. If they cut that budget, your services must be curtailed. You must raise money or continue services through attrition, it is not going to be in the field of education. This is mandated, X-number of teachers for X-number of students, your attrition is going to come through services the taxpayers are paying for other than the education that they are paying for. This means that your rubbish may not be picked up, your roads may be fixed at a later date. It is creating a very difficult situation for your school boards.

As far as negotiators, -- I didn't check the number -- but there are many, many municipalities today who hire professional negotiators to work on that contract. So, this does not truly bring in a professional negotiator to the fact finding process and to decide whether we should have proposal "A" or proposal "B." This could cost your municipality, the people that pay the taxes there as well as here, many more dollars and you would have less services.

I urge you to vote no.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker, Men and Women of the House: Collective bargaining in this state for public and municipal employees is in its infancy, it is very young really. It started in about 1969, less than 20 years ago. In its infancy, we heard much talk about bargaining in good faith. When this concept was a dominating factor, many contracts were settled without even involving the mediation stage of collective bargaining, let alone using fact finding and arbitration.

Having myself lived in a family that has benefitted from these negotiations in such matters as low comprehensive health insurance, increased salary, extra curricular salary, it is difficult for me to believe that negotiations have not been working in some cases for the past few years.

However, in the area of educational funding, I do support our looking into some solutions on the state level, since I do not agree with mandating teacher salaries without proper funding.

When citizens believe that municipal employees are underpaid or not receiving suitable fringe benefits, they always have the recourse of voting in new selectmen or new people on the school board. In our democratic society, we elect officials to carry on our public business and to set our taxes to pay for the expenses involved in carrying on this business.

To accept this bill today would be saying that we would take the authority from our elected officials and give a third party the decision making power.

I would like to read you a few sentences from a letter sent to me from our local town manager. "On behalf of the Board of Selectmen of Waldoboro, I am writing to express our opposition to L.D. 1667, An Act to Amend the Municipal Employees Labor Relations Law. Salaries, fringe benefits, and pensions are by far the major portion of the municipal budget." He estimates 60 to 70 percent. "This legislation would effectively remove substantial taxation authority from our local elected officials and taxpayers and place it in the hands of a third party arbitrator. What recourse would the taxpayer have with binding arbitration? Such legislation is not only intolerable, but would seriously erode our democratic society."

I urge you to please vote no on the pending motion.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I thank you, I will try to be brief, concise, and to the point. You have heard earlier that this is not a new issue, this is an old issue, and there are a lot of predetermined prejudices and propaganda about this issue. This is a new approach, an approach that works in Iowa, and I must tell you that the concerns you have heard from people, who are opposing this measure tonight, are unfounded.

First of all, a reply to Representative Carter's constitutional test. I am reading from Representative Carter's book. It says here in Section 22 "of their Representative's in the Legislature." If you and I make a decision that binding arbitration is a legal way in which to settle disputes or economic disputes, then in fact, it will occur.

Second of all, Representative Hale, a person I greatly respect on the Labor Committee, also serves as a selectman in her town. I understand how she is feeling but there are eleven safeguards in this piece of legislation. All of the points that Representative Hale has mentioned are going to be taken into consideration.

In your piece of legislation, which is L.D. 1667, these eleven points are itemized. The negotiations up to the present point are going to be taken into consideration.

Number 2, the interest and welfare of the public and the financial ability of the governmental unit to finance the cost items proposed by each party in the dispute are there. The change in the cost of living, the interest and welfare of the public employee group, the comparison of wage and hours and working conditions, including and not limited to the hazards of the jobs and other considerations, are in Point 5 or "E" on your bill on page 5.

Number 6, Point F, the overall compensation presently being received by the public employees that we are talking about, including the compensations such as vacations and holidays are in there.

Number 7, the other factors, any other factors not confined to this subsection that are normally and traditionally taken into consideration in your municipality such as hours, and working conditions are in there.

Number 8, the need of the public employer, for qualified public employees, and this is an issue that we did talk about, and it was included in the piece of legislation.

Number 9, conditions of employment and similar occupations outside the governmental unit are there.

Number 10, the need to maintain appropriate relationships between the different occupations within that governmental unit, meaning your municipality, are in the piece of legislation.

Number 11, the need to establish fair and reasonable conditions in relation to job qualifications and responsibilities are in there.

Those eleven safeguards (I believe folks) are part of the new approach. I am sorry that we must call this binding arbitration because of the prejudices of the past and because minds are set, but all of us here have not allowed public employees to strike. I don't approve of public employees to strike, but I do believe that if there are delays in negotiations and the arrival of a contract agreement, that these people must have some recourse.

I also want to respond to Representative Willey -- it was not on the Statement of Fact where he said the present collective bargaining system is working well. That particular statement (I believe) comes from the paper I am holding here, which is a piece of paper informing you why a particular organization is opposed to this piece of legislation.

Finally, I do want to say I am very pleased that Representative Begley is looking for a way to pay the education costs in our state. But up to now, we have failed to find solutions to fund education in our state, and we have heard glowing reports of the people who teach our children, all our children, at all levels. Up to now, we have failed to find solutions to fund property tax relief. I am pleased that Representative Begley will be interested in doing such things that may come before this body in the future. However, it has been brought to my attention through the public hearing on this particular piece of legislation, that if we are sincerely interested in increasing teacher salaries, that we certainly need this bargaining law.

Since 1972 in our state, teachers' salaries have dropped from 31st in our nation to 48th. Also the percentage of school budgets in our municipalities have dropped from 70 percent to approximately 55 percent. Many of us sat here in 1984 and said, we need quality education. We need excellence in education. I believe we also voted for teacher grants and increases in salaries. Now it is time to bite the bullet, it is time to see that these people are paid well and that these people are fairly treated.

We heard from the Representative from Kennebunk that collective bargaining is good, so let's vote for binding arbitration tonight.

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

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I speak to you today, not just as a State Representative, but as a former municipal officer. I think there is not a municipal officer in this State of Maine who is in favor of this particular bill.

When the gentleman from Madawaska, I don't know whether he was speaking in jest when he said that school boards and city councils did not negotiate fairly, I hope if he didn't say it in jest, he was speaking about his own community and not mine. I like to think we have treated our employees with great respect and I think they are very happy with what we have done for them.

It comes up every year, and you know you can dress it up, you can give it a different name, but it is still the same old bill. It is binding

arbitration. You can talk about the last offer or the first offer, whatever you want to talk about. What you are doing if you pass a bill like this, is taking control away from the officials in your city that you elected, that were elected by the people of that municipality. You are eliminating them from the process and I don't think that is the proper way to do things.

I think if you were deadly serious about this bill Representative Ruhlin, Representative McHenry, I think you would have had something in here about state employees. If you are going to say that municipal employees are under binding arbitration, why should not the same thing apply to state employees? I just have a problem with the fact that we here on the legislative level try to take authority away from the people who represent our citizens at home. I think they are very honest people, I think they are very hard trying people, and probably I am sure just as intelligent as we are here.

I guess I can't add any more to it. When you start taking control away from the local people, you are doing an injustice to everybody in this state. I hope you think about that before you vote for it. I hope you vote against this motion.

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

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: Just a word of information. I want to point out that I am also a former municipal official, city councilor and mayor, and believe very strongly in local control. I am one of those that happen to be able to read, and I read 1667, and found that in reading it and interpreting it carefully that it does in fact maintain local control. That is why I am very pleased to stand before this House and support it. It does do its best to discourage impositions at the local level, and in so doing, it encourages the settlement of labor problems and disputes at the local level. I think that is important. As far as state employees that have the municipal employees and the educators and so forth -- two out of three is not bad, there is always next year.

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

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to congratulate the gentleman from Brewer on his ability to read. I also can read. But you seem quite evasive about the state employees. If you are saying it is fair for municipal employees, are you saying it is not fair for state employees?

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

Representative RUHLIN: Mr. Speaker, Men and Women of the House: In response, I would say to Representative Macomber, no, I do feel the state employees should be included but I think as far as this bill, where we are using a new approach in the State of Maine, I really want to emphasize that, it truly is a new approach for this state, that we should learn to walk before we run. That is why it is limited to two out of three. I do feel that it is something all public sector employees should have the benefit of, ultimately.

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: Maybe I should phrase it more properly. My statement was most, maybe it is quite a few, maybe it isn't. But there are municipal officials that sit there and do say that they do not

have to negotiate. They really don't. And as far as my municipal officials, my teachers are some of the best paid in the state. I have no problem with mine, there is no problem there.

When you have teachers in the State of Maine going from 28 in 1972, nationally in salary, to 48 today, there is something wrong in the process of bargaining. Something is not right. I truly believe that, and I believe this bill will remedy the situation.

I would also like to request a roll call.

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

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: As you listen to this debate, you may have noticed a strange inconsistency in this bill. In the first place, both parties at one point in the negotiations, present in writing, the last best offer they intend to make. On the other side of the issue, the other side presents a list of items, the least they will accept.

You have also heard it stated and it is true, that the arbitrators have to work in this premise, they cannot shuffle things around, they cannot add to and subtract from -- but at the same time the inconsistency is the number of safeguards that have been put in it. It says they have to consider whether it can be paid for, all these different conditions and how on earth are they going to do that if they can't change any of the figures? Now put yourself in this position, if you are a negotiator, and you are writing the contract, you are on the school board, or a member of a teachers union, and you know very well that you are bound by the last best offer that you are going to make, how good of an offer are you going to make? Let's say that I want to buy an automobile, and whatever I say is what I am going to pay for it. Am I going to make a good offer? You are darn right, I am not. I am going to make a lousy offer, because somebody else is suppose to come along and take responsibility for that. The last best offer is probably the poorest form of arbitration that there is because nobody is going to make a good offer. It simply isn't practical to do it, and it simply isn't natural to do it. But if they do, whatever offer they make, it cannot be changed and all of these safeguards that are supposedly written in the bill, simply do not work because the negotiators simply cannot shift them around.

I hope that we can defeat this bill and defeat the motion on the floor. Incidentally, I hope we vote pretty soon.

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 McHenry of Madawaska that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

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

Representative STROUT: Mr. Speaker, Would I be in a position to be excused under House Rule 19?

The SPEAKER: The Chair would inquire under what basis the Representative is making the request?

Representative STROUT: As a municipal employee.

The SPEAKER: The Chair would inquire if he is presently covered by a labor contract?

Representative STROUT: The answer is no.

The SPEAKER: The Chair would then respond that he would not be in conflict.

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

Representative Jalbert: Mr. Speaker, I request permission to pair my vote with the Representative from South Portland, Representative Anthony. If he were present and voting, he would be voting yes; I would be voting no.

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

Representative Richard: Mr. Speaker, I request permission to pair my vote with the Representative from Sanford, Representative Paul. 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 McHenry of Madawaska that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 85

YEA - Aliberti, Allen, Baker, Bost, Boutilier, Carroll, Cashman, Chonko, Clark, H.; Clark, M.; Conley, Cote, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Gurney, Handy, Hickey, Hoglund, Hussey, Jacques, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lisnik, Mahany, Martin, H.; Mayo, McHenry, Michaud, Mills, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Nutting, Paradis, J.; Paradis, P.; Perry, Pouliot, Priest, Ruhlin, Rydell, Sheltra, Smith, Stevens, P.; Swazey, Tamaro, Tracy, Vose, Walker, Warren, Weymouth, The Speaker.

NAY - Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Bragg, Brown, Callahan, Carter, Coles, Crowley, Curran, Davis, Dellert, Dexter, Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Gwadosky, Hale, Hanley, Harper, Hepburn, Hichborn, Higgins, Holloway, Ingraham, Jackson, Lawrence, Lebowitz, Look, Lord, MacBride, Macomber, Manning, Matthews, K.; McGowan, McPherson, McSweeney, Melendy, Moholland, Murphy, E.; Murphy, T.; Nicholson, Norton, O'Gara, Paradis, E.; Parent, Pines, Racine, Reed, Rice, Ridley, Rolde, Rotondi, Salsbury, Scarpino, Seavey, Sherburne, Simpson, Small, Soucy, Stanley, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Tardy, Taylor, Telow, Thistle, Tupper, Wentworth, Whitcomb, Willey, Zirkilton.

ABSENT - Hillock, Holt, Kimball, Marsano, Rand, Reeves, Webster, M..

PAIRED - Anthony, Jalbert, Paul, Richard.

Yes, 57; No, 81; Absent, 7; Vacant, 2; Paired, 4; Excused, 0.

57 having voted in the affirmative and 81 in the negative with 7 absent, 2 vacant, and 4 paired, the motion to accept the Majority "Ought to Pass" Report did not prevail.

Subsequently, the House voted to accept the Minority "Ought Not to Pass" Report in non-concurrence and sent up for concurrence.

(Off Record Remarks)

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

CONSENT CALENDAR  
Second Day

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

(S.P. 437) (L.D. 1317) Bill "An Act to Modify Certain Sections of the Medical Examiner Act to Control Public Dissemination of Information Placed on the Death Certificate by the Medical Examiner in Cases under Investigation by the Attorney General's Office" (C. "A" S-99)

(H.P. 1130) (L.D. 1540) Bill "An Act Amending the Assumed Payroll of Partnerships and Sole Proprietors in a Self-insured Group"

(H.P. 893) (L.D. 1194) Bill "An Act Relating to Adult Education" (C. "A" H-201)

(H.P. 1026) (L.D. 1384) Bill "An Act Relating to Private Citizens being Reimbursed by Local Police Departments in Certain Prosecutions" (C. "A" H-202)

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

(Off Record Remarks)

Representative Jalbert of Lisbon was granted unanimous consent to address the House:

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: On Roll Call No. 84, I am recorded as voting no, I believe I voted yes but I may have hit the wrong button but I would like the Record to show I wanted to vote yes.

On motion of Representative MacBride of Presque Isle,

Adjourned until Friday, May 29, 1987, at twelve o'clock noon.