

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

H.P. 150 L.D. 191

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-275).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-275)

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-275) READ and ADOPTED, in concurrence.

Under suspension of the Rules, the Bill READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in concurrence.

Senate at Ease

Senate called to order by the President.

Off Record Remarks

On motion by Senator PEARSON of Penobscot, ADJOURNED until Tuesday, June 9, 1987, at 9:30 in the morning.

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
84th Legislative Day
Tuesday, June 9, 1987

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

Prayer by Father John Marquis, St. John's Church, Brunswick and St. Andrew's Mission, Pejepscot.

The Journal of Monday, June 8, 1987, was read and approved.

Quorum call was held.

SENATE PAPERS

The following Communication:

The Senate of Maine

Augusta

June 8, 1987

The Honorable John L. Martin

Speaker of the House

113th Legislature

Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Judiciary, the Governor's nomination of Donald G. Alexander of Readfield for reappointment as Justice of the Maine Superior Court.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

ORDERS

On motion of Speaker MARTIN of Eagle Lake, the following Joint Resolution: (H.P. 1307) (Cosponsor: Senator COLLINS of Aroostook)

JOINT RESOLUTION HONORING THE SESQUICENTENNIAL
OF THE SETTLEMENT OF ASHLAND

WHEREAS, from the beginning of settlement in Maine until now, its forests have been the greatest national resource, a priceless heritage of growth and beauty; and

WHEREAS, deep within this vast wooded tract on an oxbow in the eastern bank of the Aroostook River, a settlement called Ashland was formed in 1837 at the height of the Aroostook War; and

WHEREAS, this town, named Ashland, for the Kentucky estate of Henry Clay, prominently stood amid heavy growth of the king pines until the State's eastern boundary was officially established; and

WHEREAS, in 1842, after the boundary war, the town flourished and, by the 1900's, it became an important shipping center for potatoes and lumber, exceeding 100 carloads daily; and

WHEREAS, the inhabitants of this remote northern community have much to be proud of, a legacy to be shared and celebrated in this, the 150th year since settlement; now, therefore, be it

RESOLVED: That We, the members of the Senate and House of Representatives of the 113th Legislature of the great and sovereign State of Maine pause in our deliberations to congratulate the Town of Ashland for 150 years of advancement since its first settlement and offer the good citizens of this fine community our best wishes and continued support as we look to the future; and be it further

RESOLVED: That suitable copies of this Joint Resolution, duly authenticated by the Secretary of State, be transmitted to the officials of this proud community as a tangible token of the sentiments expressed herein.

Was read and adopted and sent up for concurrence.

REPORTS OF COMMITTEES

Ought to Pass in New Draft

Representative BOST from the Committee on Education on RESOLVE, to Establish a Task Force on Post-secondary Education Financing (H.P. 887) (L.D. 1188) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1294) (L.D. 1772)

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

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

Ought to Pass in New Draft

Representative WEYMOUTH from the Committee on Utilities on Bill "An Act to Require the Installation of Telecommunication Devices for the Hearing and Speech Impaired in Public Facilities" (H.P. 791) (L.D. 1063) reporting "Ought to Pass" in New Draft (H.P. 1295) (L.D. 1773)

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

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

Ought to Pass in New Draft

Representative BEGLEY from the Committee on Judiciary on Bill "An Act to Prevent Criminals from Profiting as an Indirect Result of Their Crime" (H.P. 817) (L.D. 1091) reporting "Ought to Pass" in New Draft (H.P. 1297) (L.D. 1775)

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

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

Ought to Pass in New Draft

Representative COTE from the Committee on Judiciary on Bill "An Act to Enhance the Marketability of Titles" (H.P. 239) (L.D. 307) reporting "Ought to Pass" in New Draft (H.P. 1298) (L.D. 1776)

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

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

Ought to Pass in New Draft

Representative MANNING from the Joint Select Committee on Corrections on RESOLVE, to Establish the Juvenile Corrections Planning Commission (H.P. 951) (L.D. 1280) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1302) (L.D. 1781)

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

Ought to Pass in New Draft

Representative MANNING from the Committee on Human Resources on Bill "An Act to Provide for a Prospective Payment System for State Reimbursement of Boarding Care Facilities with More than 6 Beds, to Allow for Periodic Cost-of-living Adjustments and for

Other Purposes" (H.P. 266) (L.D. 349) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1305) (L.D. 1784)

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

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

Ought to Pass in New Draft

Representative RIDLEY from the Committee on Energy and Natural Resources on Bill "An Act to Alter the Fee on the Registration of Underground Tanks" (H.P. 509) (L.D. 682) reporting "Ought to Pass" in New Draft (H.P. 1306) (L.D. 1785)

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

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

Ought to Pass in New Draft/New Title

Representative JALBERT from the Committee on Aging, Retirement and Veterans on Bill "An Act to Provide More Equitable Benefits for the Surviving Spouse and Children of Deceased Members of the Maine State Retirement System" (H.P. 935) (L.D. 1251) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Provide More Equitable Benefits for the Surviving Spouse, Children and Parents of Deceased Members of the Maine State Retirement System" (H.P. 1296) (L.D. 1774)

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

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

Ought to Pass in New Draft/New Title

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Limit Personal Liability of Volunteer Firemen and Volunteer Ambulance Drivers" (Emergency) (H.P. 674) (L.D. 907) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Clarify and Limit Personal Liability of Volunteer Firemen and Volunteer Ambulance Drivers" (Emergency) (H.P. 1299) (L.D. 1777)

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

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

Ought to Pass in New Draft/New Title

Representative MANNING from the Committee on Human Resources on Bill "An Act to Require Mandatory Certification of Adult Day Care Services in Maine" (H.P. 431) (L.D. 576) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Require Licensing of Adult Day Care Services in Maine" (H.P. 1304) (L.D. 1783)

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

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

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act to Limit Contributions which Candidates may Receive from Political Action Committees" (H.P. 1014) (L.D. 1367)

Signed:

Senators: KANY of Kennebec
DILLENBACK of Cumberland
Representatives: PRIEST of Brunswick
TUPPER of Orrington
MURPHY of Berwick
MARTIN of Van Buren
HARPER of Lincoln
JALBERT of Lisbon
STEVENS of Sabattus
PAUL of Sanford
PERRY of Mexico

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act Concerning Contributions by Political Action Committees" (H.P. 1300) (L.D. 1778) on same Bill.

Signed:

Senator: ESTES of York
Representative: STEVENSON of Unity

Reports were read.

Representative Perry of Mexico moved that the House accept the Majority "Ought Not to Pass" Report.

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

Representative HANDY: Mr. Speaker and Members of the House: I hope you reject the Majority Report of the Committee so we could accept the Minority Report.

The bill that I presented before the Legal Affairs Committee would have placed the following limitations in aggregate the amount that a candidate may receive from one or more political actions committees, \$45,000 for gubernatorial candidates, \$1,000 for state Senate candidates, \$500 for Maine House candidates and \$250 for other state officers. That individuals with similar political obtainable desires and goals will form into a group to focus their voice on decision makers is a natural part of our political system. Such factions are as old as democracy itself and it would seem that they are here to stay. To deny their existence would be foolish and to demand their immediate and permanent removal would be impractical, probably undesirable, and certainly unconstitutional.

The founders of our government recognized this and they also realized that as these factions grew in size and sophistication, along with the rest of the political process, from time to time decisions would have to be made to balance the existence of the factional influence with the sanctity of the one person, one vote rule. Such a decision is before you today.

Political action committees emerged on the political scene during the post-Watergate chaos of the 1970's when it was believed by many that we would all be better off if we could keep track of who was giving to whom. This was the first time that corporations were allowed to act in the same manner of regular citizens by openly giving money to political campaigns. PAC's have been giving and growing for several years now and it is obvious that some fine tuning is needed at this point if the electoral process in this state is to retain some semblance of high integrity it currently enjoys in the eyes of the Maine voter.

The unlimited use of this money representing narrow political interests is unquestionably the greatest deterrent to equitable and open government. All citizens, rich or poor, young or old, corporate president or shoe worker, must share equally in our democratic process. The unchecked and unrestrained

use of our concentrated wealth as seen in political action committees will prevent this much needed and desirable participation from happening.

When I talk with people who are somewhat ambivalent about participation in our political process, participation of even the most basic of activities, that being voting, the reason they often give is the feeling of impotence. Why should I they ask, when people in groups with money have such an undue influence on the process, I must admit that I find it difficult to counter this reasoning.

Another compelling issue is the question of exactly what these PAC's are getting for their money. Despite legislators protestations to the contrary, there is strong public perception that special interests financing equals special interests positions and special interests voting. It is the perception that the public has of us, the elected public servant. It is that perception that, at the very least, we must change. PAC's have also fed the inflation of election costs. There is usually no shortage of committees willing to contribute substantial amounts to a particular candidate. The candidate's ability to afford more expensive campaign costs spurs his or her opponent to funding from other political action committees which are equally willing to contribute in the hopes that their candidate will win and help represent their views.

It is now time to call an end to this monetary arms race. In the last election cycle in 1986, we saw an historic moment where one Political Action Committee, only one Political Action Committee gave over \$150,000 to candidates in Maine elections. To me, we are approaching crisis proportions. The PAC's, over the last two years, have increased from somewhere around 45 PAC's to 60 PAC's in this state, and they are growing.

I ask you today to give impetus to the individual's voice and the individual's First Amendment rights. It is those rights to which we must give the greatest consideration in the political process. We must be pro-active and not reactive, and not wait for a crisis to happen when we will not be thinking with clear heads.

The issues which arise from Political Action Committees and PAC contribution limitations in elections stem largely from the Supreme Court Decision of Buckley v. Valeo 424 US 1 in 1976. In that decision, the court found that Congress had the power to provide for a certain campaign finance reform legislation and held that contribution limitations despite First Amendment issues are constitutional since they are justified in the government's interest in the prevention of corruption or the appearance of corruption.

The New Draft to which the minority of the committee offers today is L.D. 1778, which goes far away from the original intent of 1367, but at least it is one very small step toward providing some kinds of system of checks and balances with respect to Political Action Committees. The thrust of L.D. 1778 simply requires that any candidate that receives a \$250 or more contribution from a Political Action Committee report that contribution within 48 hours of its receipt.

I would ask you to oppose the motion before us today so that we can accept the Minority Report which makes this small step.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I would ask that you support the motion "Ought Not to Pass." This bill came before the Legal Affairs Committee and no one on the

Legal Affairs Committee doubts that there may be some need to control contributions from Political Action Committees. But one thing that was overlooked by the sponsors is that it is one thing to be in a urban area when you campaign and it is another thing to be in a rural area.

This is very much limited to what you can receive from the PAC's. Now one word that they used was aggregate. That is just the total figure. They don't say that you are limited to so much money per PAC contribution, but the total amount that you can have.

Now it is pretty difficult for someone who has an area, possibly the size of Rhode Island or some districts that certain members say have as many as seven or eight zip codes, eight or nine telephone exchanges, and they probably have to travel miles and miles. They probably have to make sure that they put ads in five or six different newspapers. To be limited to \$500 on these small amounts of total contributions from PAC's, you are saying you are going to have to go out and try to find it subterfuge and get somebody to give to you in the back pocket. That is exactly what is going to happen.

We are not against any kind of contributions or limit of contributions from PAC's. But I think, to have such a small miniscule amount, is asking the candidates to do exactly what you are trying to prevent -- to try and get it on a personal basis and that is even worse.

I would urge that you vote on the pending motion.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to support the "Ought Not to Pass" position also. When this bill came before our committee, we were very concerned with PAC's, but we believe that we know PAC's at least. People are going to donate and they will find another way of doing it, whether it is through PAC's or something else. By putting all of these restrictions on them, it is not going to do any good. Reporting in 48 hours -- to me that would be quite a problem. Now we have to report a number of times, but as soon as we get PAC money, it would be two days that that would have to be in or we would be fined. I don't really believe that too many of us who are running here for the House get PAC money. I know that I have never filled out a questionnaire or asked for it because I don't want to be controlled by any special interests. I don't believe that all PAC's are special interest. I think some of these PAC's are just the common citizen out there and this is their right.

I would urge you to support the "Ought Not to Pass" Report.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to urge your rejection of the Majority Report. This is an unusual circumstance for me. I opposed the original bill. I have been the head of a PAC in this state, and I have been the recipient of probably as much PAC money as anyone else in this body in the last election. I am not ashamed of that fact, I am proud of that fact. That is money that individuals gave to candidates, they wanted it to go to candidates like me.

However, I think it is entirely appropriate that when I receive that money, it be reported. It was reported on my current form and I think it is appropriate that it be reported separately, which is all that this bill asks us to do. I believe, unlike some other people in this body, that PAC's are an

appropriate part of our political system. But I do believe it is also appropriate for our constituents to ask for this kind of accountability from us. Therefore, I will support the Minority Report on this bill.

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

A vote of the House was taken.

94 having voted in the affirmative and 24 in the negative, the motion to accept the Majority "Ought Not to Pass" Report did prevail. Sent up for concurrence.

Divided Report

Majority Report of the Committee on Banking and Insurance on Bill "An Act to Clarify the Authority of the Superintendent of Insurance to Assign Risks for Workers' Compensation Insurance" (H.P. 1127) (L.D. 1537) reporting "Ought to Pass" in New Draft (H.P. 1301) (L.D. 1780)

Signed:

Senators: THERIAULT of Aroostook
BUSTIN of Kennebec
COLLINS of Aroostook
Representatives: CLARK of Millinocket
TARDY of Palmyra
RYDELL of Brunswick
TRACY of Rome
ERWIN of Rumford
SIMPSON of Casco

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

Signed:

Representatives: BOTT of Ororo
GARLAND of Bangor
WEBSTER of Cape Elizabeth
CURRAN of Westbrook

Reports were read.

Representative Rydell of Brunswick moved that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Webster.

Representative WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will vote against the Majority Report. This is a minor bill but it presents some problems for us and I would like to explain to you what they are.

Judge Alexander has already ruled that the Superintendent of Insurance has authority to make assignments from the assigned risk pool so there is really no need for this legislation. The legislature should not try to guess what the Maine Law Court will decide. No appeal has been filed yet. If appeal is taken, there is no reason to believe that the Law Court will not affirm Judge Alexander's decision.

There is a risk that this bill may have unintended consequences. The bill only provides that the Superintendent may make assignments. Is it the intent of the sponsors to require insurers to accept the assignments? Why was this not made clear? Do the sponsors intend that the Superintendent have authority to make assignments to workers' compensation insurers, who are not under the plan? Why not treat all workers' compensation insurers the same?

The committee did not see this bill until just a few hours before all bills had to be out of the committee. There simply was not time to properly

address concerns raised about this bill. If haste makes waste, this bill is a waste.

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

Representative RYDELL: Mr. Speaker, Ladies and Gentlemen of the House: This bill clarifies the intent of the 1985 workers' comp rating law with respect to the involuntary market or the residual market mechanism. That law stated that this residual market mechanism shall be composed of an accident prevention account and a safety pool. That is the insurance code as stated in Judge Alexander's decision, contemplates establishment of a residual market mechanism. This recent court decision reaffirmed that a residual market mechanism or assigned risk plan is specifically included in the statutory plan for workers' compensation insurance system. However, it says it also contemplates that the residual market mechanism "shall be created from a plan submitted by a designated advisory organization and that the plan must be approved by the Superintendent of Insurance." At the present moment, the only designated advisory organization has terminated its participation in an assigned risk plan, and accordingly, the court declared that the Insurance Superintendent has proceeded to establish a plan on his own. The law also mandates that "the Superintendent shall enforce the provisions of and execute the duties imposed upon him by this Title."

The Superintendent has taken the action to establish a plan on his own, and it is not specifically stated in the law, although that was the legislative intent of that law. However, the majority of our committee, after a good deal of discussion even though it was in the very last hours, made the decision that we would clarify the intent of that law and that we would state very simply, that the Superintendent did have the authority to make those assignments both to the accident prevention accounts and to the safety pool.

It is expected that the recent court case will be under appeal to the Supreme Court. The insurance industry has argued that the Superintendent of Insurance did not have the statutory authority to require the companies to accept mandatory assigned risk pool assignments. If their position should be upheld on appeal, the assigned risk system will be thrown into chaos. This bill simply makes the authority of the Superintendent explicit in the statutes and will forestall any future potential problem.

I hope you will vote to accept the Majority "Ought to Pass" Report.

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

Representative BOTT: Mr. Speaker, Ladies and Gentlemen of the House: I, too, hope you oppose the pending motion. One of the things that makes the Maine Legislature great is the fact that it has the ability for all members of the public and all interested parties to have a comment through the process of a public hearing. This bill did not have a public hearing and it came in at the eleventh hour.

So my first question in reviewing this was, "Is this bill absolutely necessary? Is it necessary that we pass this despite the fact that we have had very little meaningful discussion on it despite the fact that all the interested parties have been able to comment?" Speaking as one Representative of the committee, I don't feel that those questions were properly answered.

Further, I have read parts of Judge Alexander's opinion and I found in the opinion that it clearly states that the Superintendent has the authority to

assign parties to the unassigned risk pool. I don't believe it is good legislation, good public policy to start legislating based on hypothetical appeals that might possibly occur down the road. I have failed to hear from anyone that this bill has to be passed right now.

I felt that it would be better addressed at a later time when all the parties involved in this very important area had a chance for meaningful input. I think it is Chicken Little legislation and I urge that you oppose this motion.

Representative Webster of Cape Elizabeth requested a roll call vote.

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

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

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

Representative CLARK: Mr. Speaker, Men and Women of the House: One point that I think should be cleared up -- that interested parties were informed of this committee work session and the Superintendent did take part in this. Anybody that had anything to say was there. We did work on this bill and I thought we gave it a very good work session. So if you have any questions, you ought to ask them now, not later.

We did take a lot of time on this bill and it is very important to a lot of members.

The SPEAKER: The pending question before the House is the motion of the Representative from Brunswick, Representative Rydell, that the House accept the Majority "Ought to Pass" Report. Those in favor will be voting yes; opposed will vote no.

ROLL CALL NO. 115

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

NAY - Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Bragg, Callahan, Curran, Davis, Dellert, Dexter, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Harper, Hepburn, Hichborn, Higgins, Hillock, Holloway, Ingraham, Jackson, Kimball, Lawrence, Lebowitz, Look, Lord, MacBride, Matthews, K.; McPherson, Murphy, E.; Murphy, T.; Nicholson, Norton, Paradis, E.; Parent, Pines, Reed, Rice, Salsbury, Scarpino, Seavey, Sherburne, Small, Stanley, Stevens, A.; Stevenson, Strout, B.; Tupper, Webster, M.; Wentworth, Weymouth, Whitcomb, Zirkilton.

ABSENT - Boutilier, Kilkelly, Priest, Stevens, P.; Taylor.

Yes, 85; No, 59; Absent, 5; Vacant, 2; Paired, 0; Excused, 0.

85 having voted in the affirmative and 59 in the negative with 5 being absent and 2 vacant, the motion

to accept the Majority "Ought to Pass" Report was accepted, the New Draft read once.

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

COMMITTED TO THE COMMITTEE ON TRANSPORTATION

Bill "An Act Relating to the Maine Transportation Capital Improvement Planning Commission" (S.P. 598) (L.D. 1758)

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

On motion of Representative Moholland of Princeton, committed to the Committee on Transportation in non-concurrence and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act Enabling Municipalities to Establish Municipal Land Banks Funded by a Local Option Real Estate Transfer Tax" (H.P. 543) (L.D. 727) (C. "A" H-274)

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.

ENACTOR

Emergency Measure

Recommitted to the Committee on Human Resources

An Act to Implement the Recommendations of the Driver Education Evaluation Program Study (H.P. 962) (L.D. 1291) (C. "A" H-254)

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

On motion of Representative Manning of Portland, recommitted to the Human Resources Committee in non-concurrence and sent up for concurrence.

ENACTOR

Emergency Measure

Later Today Assigned

RESOLVE, Pertaining to the Implementation of a Plan for Greater Coordination of Human Resource Development Programs (H.P. 1277) (L.D. 1748)

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

On motion of Representative Diamond of Bangor, tabled pending final passage and later today assigned.

ENACTOR

Later Today Assigned

An Act to Implement the Recommendations of the Joint Select Committee for Learning Disabled Children (H.P. 350) (L.D. 449) (C. "A" (H-253)

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

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

PASSED TO BE ENACTED

An Act to Improve Funding for Communicatively Impaired Maine Residents Served by Community-based, Private Nonprofit Speech and Hearing Centers (H.P. 722) (L.D. 973) (C. "A" H-255)

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

ENACTOR

Later Today Assigned

An Act Relating to Adult Education (H.P. 893) (L.D. 1194) (H. "A" H-243; S. "A" S-137)

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

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

PASSED TO BE ENACTED

An Act to Change the Name of the Bureau of Civil Emergency Preparedness to the Maine Emergency Management Agency (H.P. 1194) (L.D. 1626) (S. "A" S-135)

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 ENGROSSED

As Amended

Act Relating to the Payment of Dues to Grower Organizations by Handlers and Processors of Farm Products (H.P. 1280) (L.D. 1753)

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

On motion of Representative Tardy of Palmyra, under suspension of the rules, the House reconsidered its action whereby L.D. 1753 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-279) and moved its adoption.

House Amendment "A" (H-279) was read by the Clerk and adopted.

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

PASSED TO BE ENACTED

An Act to Amend the Laws Governing Diagnostic Evaluations of Juveniles for Juvenile Court Proceedings (S.P. 497) (L.D. 1514) (C. "A" S-136)

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.

ORDERS OF THE DAY

UNFINISHED BUSINESS

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

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

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" in New Draft under New Title Bill "An Act to Limit Electric Hook-up Fee Requirements by Electric Utilities" (H.P. 1289) (L.D. 1767) - Minority (4) "Ought to Pass" in New Draft (H.P. 1290) (L.D. 1768) - Committee on Utilities on Bill "An Act to Prohibit Initial Service Charges by Public Utilities" (H.P. 854) (L.D. 1148)

TABLED - June 8, 1987 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Motion of Representative VOSE of Eastport to accept the Majority "Ought to Pass" in New Draft under New Title Report. (Roll Call Requested.)

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Vose of Eastport to accept the Majority "Ought to Pass" in New Draft under New Title Report and specially assigned for Wednesday, June 10, 1987.

LAPOINTE of Auburn
DELLERT of Gardiner
PINES of Limestone

Minority Report of the same Committee reporting "Ought to Pass" in New Draft (H.P. 1308) (L.D. 1786) on same Bill.

Signed:
Representatives: MANNING of Portland
CLARK of Brunswick

Reports were read.

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

Representative MANNING: Mr. Speaker, I move that the House accept the Minority "Ought to Pass" Report.

Mr. Speaker, Ladies and Gentlemen of the House: The basic difference between the Minority and Majority Reports is that the Minority Report wants -- for the first time I think in the state's history -- to deal with this problem. My committee, the Human Resources Committee, decided to keep the Certificate of Need Program in the Department of Human Services. If that is the case, ladies and gentlemen, we are still going to run into the same problem if we accept this other report.

Therefore, I decided to come out with a report that basically takes a look at all new technology. And yes, it goes into the doctor's office and I know that is something to many people is scary, but if you take a look at it, we said that it goes into the doctor's office only if it is a million dollars or more. If we don't do something, by the next legislative session, I am sure we are going to have the same type of legislation coming back here, because one of your constituents will be forced to do the same things that other people have been forced to do under this new high technology that has been going on in Bangor and Portland, and that is, to either drive to Bangor and go in as an outpatient or they would be going to Boston or to other places outside of the State of Maine because the Certificate of Need legislation says that, unless the Certificate of Need has been granted to an inpatient hospital, that hospital cannot get services to places that have not been granted the Certificate of Need.

Now the magnetic nuclear resonant program, which is in Bangor, is in a doctor's office. The doctor didn't have to get a Certificate of Need. You had the Eastern Maine Medical Center and many other hospitals who looked at that program and said, "Can we use that program?" According to state law, they cannot. If the patient is an inpatient, they cannot be taken as an inpatient across the street to the doctor's office, use this new program, and be brought back. According to the Certificate of Need law, they cannot use that.

What we decided to do is, instead of going out and building a complete new program in (for instance) the Bangor and Portland areas, we decided to use existing programs. We decided to grant a Certificate of Need to any hospital who wants to use those programs. But my report allows us to look at, until March 1, 1988, where these new technologies are to be, where they should be placed, what parts of the state they ought to be placed in.

Now there is a new program coming down the road, it is a lithotripper. It eliminates you from going in and getting surgery for kidney stones. It is a piece of equipment that costs approximately, from what I understand, about two and half million dollars. Down the road, it will probably save many people from going in and getting surgery. But that, I submit to you, ought not to be in the doctors office, but it ought to have somebody looking at it and saying just where it ought to be.

TABLED AND TODAY ASSIGNED

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

Bill "An Act to Maintain Lifeguard Services in State Government" (Emergency) (S.P. 415) (L.D. 1273) (C. "A" S-119)

TABLED - June 8, 1987 by Representative CARROLL of Gray.

PENDING - Passage to be Enacted.

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

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

Bill "An Act Concerning the Taking of Fingerprints and Submission to the State Bureau of Identification" (S.P. 587) (L.D. 1739)

TABLED - June 8, 1987 by Representative MACOMBER of South Portland.

PENDING - Passage to be Enacted.

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

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

RESOLVE, Authorizing Dorothy Gammon to Bring Civil Action Against the State and Cumberland County (H.P. 1235) (L.D. 1687)

TABLED - June 8, 1987 by Representative DIAMOND of Bangor.

PENDING - Final Passage.

On motion of Representative Gwadosky of Fairfield, retabled pending final passage and later today assigned.

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

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Human Resources on Bill "An Act to Authorize Hospitals to Use Magnetic Resonance Imaging Devices Located in Private Physicians' Facilities" (H.P. 1181) (L.D. 1611) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1303) (L.D. 1782)

Signed:

Senators: KERRY of York
GAUVREAU of Androscoggin
GILL of Cumberland

Representatives: BOUTILIER of Lewiston
ROLDE of York
SIMPSON of Casco
TAYLOR of Camden
FARNUM of South Berwick

The Minority Report, basically, says there should be a commission for them and the commission shall consist of one representative of the Maine Medical Association, that's the doctors, the M.D.'s of this state; two representatives nominated by the Maine Hospital Association, one from a large hospital and one from a small hospital; one representative nominated by the Maine Osteopathic Association, those would be representatives of the D.O.'s of the state; two consumer representatives, one of whom shall be nominated by the Certificate of Need Advisory Committee, which is an advisory committee who advises the Department of Human Services right now on problems that they run into when it comes to Certificate of Need; two payers and one health economist.

"The advisory committee shall assist the Department in defining what constitutes new technology in developing criteria for determination of need for the technology. The committee shall also assist the Department in developing a plan regarding dispersement of new technology throughout the regions of the state and shall be a standing committee of the Department to advise it on matters relating to new technology."

Now ladies and gentlemen, the problem, as I indicated before, if you have an inpatient presently inside any hospital in the State of Maine, they cannot use the machine in Bangor or in Portland because they are an inpatient, Certificate of Need prohibits that. Both the Minority and Majority Report allows it but the Minority Report goes further. It says, let's look at what would happen between now and the next time this legislature meets and try to come up with a way to take new technology and disperse it in this state so that we don't run into the problem that we are currently running into where patients are trucked from Lewiston all the way up to Bangor and ask whether or not they can use magnetic resonant imaging technology.

Now the doctor who did that knew darn well that they cannot do it. The Department of Human Services knows they cannot do it and they told them they couldn't do it. The law is the law, you cannot do it. What we are trying to say is, let's look at the future. Let's look at how we can address new technologies coming down the road, where they ought to be placed, and yes, it goes into the doctor's office, because doctors are flaunting this CON process right now. They know darn well that they are not under it, but this program only allows new technologies of \$1 million or more.

Now we are not saying that, if he wants to go up and set his own doctor's office up he has to go under Certificate of Need, we are talking new, high technology. That is the only thing that the Minority Report calls for. I would hope that you would take a hard look at this because I said it in 1984, I said it in 1985, and I said it in 1986, members of my committee who were on it back then heard me, that we were going to run into this problem, and unless we do something about it, we are going to run into this problem again.

We are going to have patients inside the hospitals of this state not being able to use new technologies because doctors' offices are using the new technology and the doctors did not get a Certificate of Need. Therefore, he or she, who is a doctor, is exempted from the Certificate of Need and they can't use inpatients. So I hope you take a hard look at this.

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

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: The sponsor of the original bill, unfortunately, is not in his seat. I am a cosponsor of the original bill that went in. I would like to start by saying that the Minority Report goes completely in the opposite direction of the bill that we put in.

I would remind the members of this House that this body in the last session, by a vote of over 120 votes, voted not to extend Certificate of Need to doctor's offices. When this bill came before our committee, we discussed it at some length. We set up a subcommittee to meet with the Department to try and work out a compromise to the problem of the fact that some inpatients of the state are not able to use the magnetic resonance machines that are now in two locations in the state, one in Bangor and one in Portland.

The gentleman from Portland is not totally correct when he says that an inpatient in any hospital in this state cannot use these. That is not technically true because what happened in the Bangor area is that the Eastern Maine Medical Center has been granted a Certificate of Need by the Department so that their inpatients can use the machine in that area. There are currently applications from hospitals in the Portland area to use the existing machinery in the Portland area.

We sat down with a representative of the Department and worked out an agreement. In fact, I thought it was rather amazing that we were able to do that. Our agreement was that we would work out a waiver provision for patients who were in hospitals already and who needed to use the equipment, work out an expedited CON process for hospitals to be able to have their inpatients use that equipment. This is the most important part -- we would work out a system that some states have, where they have a much different system than we do for CON, our CON system is basically a negative one. It is basically set up to say no to new equipment, but there are some states that have a pro-active body which looks to see which equipment the state needs and then goes out to get it. That is what we thought we were going to get from the Department, they were going to work out the details.

Well, our agreement really was too good to last because the Department came back, and through this, tried to slip in this idea of extending their power to doctors' offices, which we had made very clear we were very much opposed to. It is now my understanding that, although the Department broke our agreement with us, that that action by the Department has been repudiated by the Governor's Office. I don't always agree with the gentleman downstairs but, on this issue, which to my mind is a spread of bureaucratic authority, an authority I have seen misused over the years, and which to my mind has deprived Maine people of the medical care they need in time -- then I do agree with him. My feeling is that our CON system is badly flawed but the Minority Report, which is further power-grab and plus a moratorium on new equipment, is absolutely and utterly the wrong way to go.

Mr. Speaker, I would ask for a roll call. I would oppose the motion of the gentleman from Portland.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to inform this House if this bill doesn't go through, we are going to be put in a position where either next year or the year after, we are going to have to deal with

the same type of problem. This year it is the magnetic nuclear resonancy imaging program. Next year it could be the lithotripper, the year after that it could be something else and the year after that it could be something else.

If the Governor's Office and the Department of Human Services are against this proposal, then I would hope that the Governor's Office and the Department of Human Services tries to address these problems, that the Committee on Human Resources and the Minority -- I would admit yes, Representative Rolde, that there were 120 votes last year, but there were five members on that committee who decided we ought to take a look at the hospitals and the doctors together. Because ladies and gentlemen, we are depriving the people of this state if we do not take a hard and fast look at where this stuff ought to go in the next few years.

The Minority Report gives the same powers as the Majority Report, but also starts the process of taking a look at where we place the new technologies and how we place it, whether it is in a doctor's office, whether it is in a hospital, or wherever it is.

What Representative Clark and I are trying to address in this proposal is taking a look at it now, and not wait for another piece of emergency legislation that comes walking through the door in two years that says, well, a doctor's office has a lithotripper and my inpatient cannot use the lithotripper, now how do I handle that? Well, do we come back with another piece of legislation, or do we take a hard and fast look at this and say new technologies ought to be placed in certain places so that we do not have a patient in a hospital in southern Maine who needs to get to northern Maine to the Bangor area because there is a lithotripper at a doctor's office in Bangor, or vice versa, a Bangor inpatient at one of the two hospitals in Bangor has to go to southern Maine and go to a southern Maine doctor. If you are inside a hospital, you cannot use these new technologies. Never mind the magnetic resonancy imaging, both committees addressed that. I am talking about new technologies and how we are going to address new technologies.

I personally want to be able to have new technologies addressed and if the Governor's Office is against this and the Department of Human Services is against it, then I would hope that they both come back to this legislature next year and address how we are going to handle this. Unless somebody is granted a Certificate of Need, an inpatient cannot use new technologies, and unless that happens, you are going to get your constituents calling and saying "Look, across the street from the Central Maine Medical Center, there is a doctor's office with a lithotripper and my mother or my father is inside the Central Maine Medical Center and cannot use that." That is what will happen in the future. What I am saying is, let's address this problem now, let's look at it and let's help the people of the State of Maine.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: For me, the issue in these two reports is not doctors' offices versus hospitals -- the issue here is planning for very expensive high-tech equipment. We know that the state picks up a tremendous amount of the bills for these kinds of equipments. We do it in a variety of kinds of payments that we have to make. We have a responsibility to look carefully at what is happening. If you look at the Majority bill, 1782, you will see on the back in the Statement of Fact,

that it is anticipated that a more permanent resolution will be enacted by July 1, 1988. But this bill does nothing to move us toward that resolution.

The Minority Report establishes a committee to advise the Department about what that resolution ought to be. Both bills grandfather the existing MRI's so the people have access to them. Our concern is that we set up a precedent that will continue over and over again as new technology comes into this state. That is what the Minority Report is attempting to prevent. The Representative from York, Representative Rolde, talked about the fact that the Department plan was for planning. If you look at 1786, that is what you have -- planning. Planning on a regional basis, you don't have that in the Majority Report. These are the reasons that the Minority would urge you to support 1786.

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

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Speaker, I had asked for a roll call, I don't think you heard me.

I would just make one comment or response to the previous speakers. In the Majority Report, one of the reasons that we don't have a recommendation for dealing with the problem of this type of equipment was because we never got what we had hoped to get from the Department. What our interest was, was not a planning group, not an advising group, but what some states have which is a group that will actually take the action to make sure that this equipment gets into the state. My quarrel is with the existing system of CON, which I see as negative, bureaucratic, and based on the premise of how can we keep this equipment out of the state, not what is the definite need of the people of this state and how can we get it to them.

I will certainly have a bill in the next session of the legislature to deal with that. I ask you not to go in what I certainly consider and the majority of the committee considers, the wrong direction, support the Majority Report, and we will have a bill in the next session that will take a pro-active stance that will bring this equipment into the state, not take a stance of how do we keep it out.

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

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I think the handwriting is on the wall. I urge you to support the Minority Report. Unless we start actually working with the planning, we are going to continue to have these expensive pieces of technology outside of the hospitals where they do not belong. Sick people should not have to be taken out of the hospital to get their care.

If we can only deal with this once and for all, this expensive equipment will be in hospitals where it belongs. I urge you to support the Minority Report.

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

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: I arise to oppose the Minority Report offered on L.D. 1786. This proposal makes two very significant changes in the Certificate of Need law. First, it would extend the Certificate of Need process to facilities outside the hospital settings. The bill would impose an absolute ban on the establishment of new technology services until March 1, 1988. In my opinion, both of these concepts are ill-conceived and have the potential for significantly harming hundreds of patients in the State of Maine over the coming months.

This legislature had an opportunity, both in 1977 and 1985, to extend the Certificate of Need to outpatient settings. Each time the issue has been considered by the legislature, it has been overwhelmingly defeated. This year would be a most inappropriate time to consider such an extension. Several states have now repealed their Certificate of Need laws after studies have confirmed that Certificate of Need programs do not control costs, and, in many cases, are anti-competitive, are subject to abuse, and even more recently, the Federal Trade Commission has released a new study showing the Certificate of Need program has actually increased hospital prices by four percent. Hospital expenses are higher in states that have Certificate of Need laws. With most of the evidence now coming down on the side of repealing Certificate of Need, this would now be an odd time indeed for the Maine Legislature to consider extending our program.

Originally, there was at least an historical purpose for CON when hospitals were paid on the basis of reasonable cost. The reasonable cost formula assured hospitals they would be reimbursed for the costs for all capital equipment for facilities and equipment, regardless of use or need. Because providers of services other than facilities are reimbursed under a variety of methods, including a reasonable charge basis, no need has been seen in the past, and there is no need now to extend the Certificate of Need requirement to these providers.

These providers have no guarantee that their costs will be met and this difference in reimbursement alone assures that any such provider purchasing significant major medical equipment will be certain that it is needed in the community before it is purchased. If they purchase the equipment and the need is not there, they will face financial loss. No one is guaranteeing their payment to them. In fact, in 1987, ten years after CON was enacted, I do not believe there is an example of provider abuse. Where is the expensive technology that was placed without need?

Although the original rationale for CON was sound, the law quickly became a franchising mechanism which has not proven to be cost effective, even as it relates to hospitals. I do not believe that state regulators should be permitted to restrict equipment, thus preventing its use by any and all patients when the state's share of the cost and Medicaid program represents about 3 percent of health care expenditures in Maine. Most of these dollars are paid by matched funds.

Perhaps the most compelling reason to vote against the Minority Report is the fact that this proposal, which would constitute the most significant medical issue dealt with by this legislature this session, has not even had a public hearing. Although I am strongly opposed to extending CON, if what the supporters of this bill are saying is true, perhaps we should be repealing CON. The establishment of the moratorium on new technology, even if placed in a hospital, is the most frightening part of this proposal. By passing the Minority Report, we will have frozen health care in Maine where it is today.

In summary, this minority amendment is seriously flawed and I hope that you will defeat it.

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

Representative LAPOINTE: Mr. Speaker, Ladies and Gentlemen of the House: I feel like I am playing God. There are high-technologies out there that can help people, and here we are, arguing on the floor. I think there is no question in my mind. I know I

face my own family, the minute my husband was severely ill, he had a heart attack and also cancer, I rushed him to Boston so that he could have the best. I think there is nothing to deliberate on this at all.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I would pose a question through the Chair please.

Going through the bill, I noticed there is a committee being formed. Is there a fiscal note attached to the bill?

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

The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I don't know. That is the Minority Report and I am violently opposed to it. So I don't know whether that has a fiscal note on it or not. I think the Majority Report does not need a fiscal note, there would be no fiscal impact.

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

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

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

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: The original bill, 1611, was my bill. It was presented to deal with only a specific group of circumstances, and I want to describe that, and then describe what the bill, 1782, that came out of committee Majority "Ought to Pass" does.

My original bill dealt with the issue that some of my constituents and I am sure many of yours who needed the services of the Magnetic Resonance Imaging machine were being denied access initially to this machine because there were only two in the state. Bangor and Portland were the only two areas in the state which had these pieces of equipment. They were in doctors' offices due to the fact that the current CON process in Maine, which was prohibitive to some extent for hospitals of some sizes to purchase this piece of equipment, and physicians who are not covered by CON, for a variety of reasons, were able to pool their resources and purchase this machine, but there are only two areas in the state that were able to do that -- Portland and Bangor.

If one of my constituents in Lewiston was within a facility, either CMMC or St. Mary's, or whether it be someone in Franklin or Oxford Counties, or Aroostook County, or in another county other than Cumberland or Penobscot, they would have to be discharged from that hospital and be sent to this particular piece of equipment. Because the CON law did not allow inpatients from another hospital to participate in this program. To me, that was unjustified and a real travesty as far as the way we run health care in the State of Maine.

I presented 1611, the original bill, in order to deal with that by trying to set a more expedited CON process and also to exempt those facilities so that they could handle inpatients, so that a patient at CMMC and St. Mary's in my district, who desperately

needed that piece of equipment and that test, would not have to go up there as an inpatient, be refused accessibility to that, and then have to become an outpatient and go through that whole process in order to get the tests they needed, which in some cases, could mean life or death to them. So I presented that bill to do that.

I understood when I presented the bill that it was an inadequate answer to the problem in the state and I also understood that it was not comprehensive enough. But I did it specifically for those reasons, to get the committee to look at the issue this year. It came out very late in the session, it was an after deadline bill. The committee took the time that we could to look at the bill, but there definitely was not enough time to deliberate all the issues involved with this, which there are many.

So the committee came out with a compromise, which a majority of the committee signed onto. That bill, 1782, is before you today. It only does one thing and that is all. It takes those two MRI's, the one in Bangor and the one in Portland, does not specifically mention that in the bill, but whereby they were purchased before June 1, 1987, it exempts them from the CON process. Now they have already gone through the system of buying those pieces of equipment, and they were already exempt from CON, so it changes nothing.

But what it does, it allows patients in my area, it allows patients from areas of the state that are not currently served by that MRI, who are not in Bangor, or Portland specific, to be serviced by that piece of equipment and not have to be discharged from their particular community hospital. It does it for one year. The reason the committee chose one year is to give us a year to look at the problem comprehensively which we could not do this year, make some choices on how to expedite CON, to deal with it so that we can do exactly what Representative Melendy said, have those pieces of equipment in the areas they should be in, that is, within a health care facility, a hospital or something else similar to that.

I don't think there are any people on the committee, I don't want to speak for everyone, but I know myself and I would say that the general gist of the committee is, we don't want to totally remove CON from the process, but we don't think the way to deal with the problem of CON is by extending it to doctors' offices which is what the Minority Report wants to do.

1782 would take those two facilities, deal with reality, and say that there are patients within the state that should have access to those two pieces of equipment and they will be given access to that, and not have to deal with the mundane, idiotic rules and regulations that are dealt with in CON now. It also deals with reality and says the committee does not have enough time to deal with that subject with seven days left in the session. So we will only give that exemption for one year.

At the end of that year, I know that I will be presenting, and Representative Rolde says he will be presenting and I am sure there will be others, who will present legislation to deal with the major problems with CON and the major problems was having pieces of equipment that are as expensive as MRI, introduced into the state, and only introduced in physicians' offices, rather than in areas they should be, and that is a hospital setting.

CON is restrictive in that it reduces the areas of the state it can be placed in. To say that it is geographically dispersed, to have one in Bangor and

one in Portland, is ridiculous. We have to have greater accessibility for all of our constituents.

I would hope you reject the Minority Report and vote for the Majority Report.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: The Human Resources Committee this term did hear several Certificate of Need bills. In the last weeks of the session as we got ready to work those bills, one of the members of our committee, who was the sponsor of several of them said, maybe we should do nothing about CON this term, maybe we should wait until the hospital study is finished. Frankly, I was very comfortable with that position. I was very happy to see that person withdraw several CON bills. However, the sponsors of the MRI bill chose not to do that.

It is my opinion that in passing 1782, we establish a dangerous precedent. You have heard it already, we will be back time and time again as new technology comes into this state. 1786 is not anti-technology, is not anti-doctor's office. 1786 allows us to plan.

If, in fact, the Human Resources Committee is going to rework this issue again next year, I, for one, would welcome a technology advisory committee to talk to us about what we ought to be planning about. This bill, 1786, allows that. It gives us a committee to advise the Department, a committee to advise the Human Resources Committee, it then will help us avoid this situation again in the future. We know technology is coming, we know that this lithotriper is coming. The estimates on what this costs are upward from two and a half million dollars. I, for one, do not believe that we can afford to have fifty of them in this state and I think we need to plan for that. This is not to keep technology out, this is to plan for where technology ought to be. I urge you, ladies and gentlemen, to support the Minority Report.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to any member of the committee that might answer.

I can only use my small town for a reference, Mr. Speaker, and in Millinocket, we have a lot of doctors right not that are leaving the hospital that are opening up their small offices outside the confines of the hospital. How will this bill affect the hospital and their operations if we are going to allow the doctors to take on this on their own and keep the smaller hospitals like we have in Millinocket operating?

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

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: It is my opinion that 1782 will encourage the doctor flight out of hospitals, and that 1786 will discourage it. I would also like to note that I am not sure that the Representative from Millinocket got an adequate answer to his question about a fiscal note. There is no fiscal note on either bill.

Representative Rolde of York was granted permission to address the House a third time.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: To further answer the

gentleman from Millinocket, I should point out to him that the Hospital Association has always been adamantly opposed to the spread of Certificate of Need into doctors' offices. They feel that the whole direction should go in the opposite direction.

The present Certificate of Need process really impinges against small hospitals. I can give you an example — in my town of York, we spent two and a half years waiting to get approval through this Certificate of Need process to have a mobile CAT scanner come into the town. Every year that we had to wait, it was costing the people of Maine \$60,000.

One of the reasons I am taking the position that I am is because I am very skeptical of the way that Certificate of Need Office is run. One of the quotes that was made by the person who runs it was, "We have no medical expertise." The people in that office do not have medical expertise. I think that is part of the problem. That is one of the reasons that the doctors in Bangor and in Portland went ahead to get this equipment, because they knew it would be years and years and years before that equipment could come into the state.

What we would like to do, and this Minority Report does not do that, is to have a pro-active group take that away, take the large scale equipment away from this present group of bureaucrats, who I think have mishandled it, and put it into a group that will say, okay, how do we get this equipment in the best way into the state? That is what I am fighting for.

We had hoped we would get a recommendation from the Department, instead, we got a fast shuffle and we got something that went totally against what we are trying to do.

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

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: It really bothers me when I hear that hospitals do not want us to go into this, because when I talk to hospital personnel, they talk about having unequal playing grounds — that doctors can get equipment that they cannot get because they have to go through the CON process. My question to them is, "If you do not want them to be able to purchase equipment, why don't you come forth when the legislature deals with having to have the CON process for physician's offices for expensive equipment?" The answer is, "Well, we don't really want CON for ourselves." So, if we go in and say we want it for doctors, what kind of a message would we be putting out? But please, give us equal playing ground. They want everything and yet they are not going to fight for what is really what they should be having, and that is the expensive equipment that the physicians are now getting, that the physicians are banding together to purchase this expensive equipment and are starting to pull the good business away from the hospitals. We are going to hurt, unless we all play on equal playing grounds. Let's vote for the Minority Report.

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

Representative KIMBALL: Mr. Speaker, Ladies and Gentlemen of the House: I just wanted to add a few comments as to my experience with the MRI and the CON process. I would urge you to vote against the Minority Report. I think that what we have in this state is a problem with how to go about providing some innovation in the health care system, whether or not you are talking about hospitals, or whether or not you are talking about other mechanisms within the community for the delivery of health care.

The expansion of CON, however, flies in the face of what we have been trying to do to develop ways that services can be provided outside the hospital or in the hospital in a cost saving manner. I want you to understand the craziness that has been involved with the CON system. When people say that a patient in a hospital has to be discharged from the hospital in order to go to a doctor's office so that they can use a piece of equipment that is in the doctor's office, then go back to the hospital and be readmitted, that is exactly what is happening. That is a problem with CON, it is a problem that you are going to vote to expand, if you vote for the Minority Report.

Presently, I understand that the Human Resources Committee is going to provide a study of the Maine Health Care Finance Commission. One of the recommendations that I made last year as a member of that committee is that that study committee look into how you could go about providing in dealing with the new innovations in health care for a rural state like Maine, how you can go about making sure that new technology, new equipment can be shared and moved throughout the state and not necessarily isolated in hospitals. Hospitals of the future, ladies and gentlemen of the House, may not look like hospitals that we have today. They may be much more community based. I urge you to vote against the Minority Report. Personally, I think that it is expanding a system that is outdated. I do think that the whole system needs study and I praise the Human Resources Committee for their study of HCFR coming up this summer.

Representative Manning of Portland was granted permission to address the House a third time.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: Ladies and Gentlemen, I have heard study, study, study all through this debate, but not one of the Majority Report indicated that they were going to study it over the summer. We are going to come back with a bill next year, we are going to study it next year, we are not going to study it over the summer. What the Minority Report says is, let's look at it now. Let's look at it with the Hospital Association, let's look at it with the doctors, let's look at it with the payers. By the way, those are the people — you know you and I pay our Blue Cross or our commercial insurance companies, you know, those bad people, but they are real good people when we need them. Let's look at it with a health economist, somebody who will be taking us into the future with new technology. Let's say we want to study it now ladies and gentlemen. We don't want to study it next year, because I have been around here, and you know, ladies and gentlemen, the Maine Medical Association, they don't want to see anything. They want everything by themselves and as good as that gentle lobbyist is out there, he will fight right to his dying day to keep doctors out of Certificate of Need.

Until we take a look at that, we are going to find ourselves with a problem where somebody is inside of a hospital in the State of Maine, is an inpatient in the State of Maine, and cannot, because of state law, and I repeat, my committee looked at doing away with Certificate of Need and decided not to do away with Certificate of Need, so we are going to have inpatients, inside hospitals of the State of Maine, who will not be able to use future high-technology services because they are placed inside doctor's offices. And until this legislature decides that they want to address that problem, we are going to have bills like this, year in and year out. Unless we say to the doctors of the state, we

want to look at, not your office, not your x-ray equipment, we want to look at high, high, high-technology, and that is the key -- a million dollars or more. You can build some buildings in this state for less than a million dollars. We are not saying buildings. We are not saying regular x-ray equipment, we are talking about high-technology -- stuff that is on the cutting edge of the health care field. That is the thing that this legislature, one of these days is going to address, because it is going to be either your relative or your constituent who is inside of a hospital, and they are going to call the Department of Human Services and say, "By the way, I have a relative who needs to have a lithotripper and it is just across the street and they can just go across the street and get it. The law says, as an inpatient, they cannot get it."

Representative Kimball is right. It is crazy, but until we address that ladies and gentlemen, that is the law of the State of Maine, and until we address it, you are going to get the complaints just as Representative Boutilier got the complaints, Representative Priest got the complaints, and others have received the complaints. But until we address it, we are going to have people who are going to be staying inside, and the only way they can get those complaints addressed is to be discharged, get across the street, take a trip up to another town, and have that procedure done as an outpatient and not as an inpatient.

I would hope you would take a look at this because this is something that we need to address, we need to look at the future, and study it now. Because I am going to tell you something, and I hope you remember it, because come next year, the doctors will be fighting us tooth and nail not to go under the Certificate of Need. Mark my words, because I have been on the committee seven, long, hard years, and every year it is the same thing -- don't put us under Certificate of Need, let us have free enterprise, we can go out and we can do what we want to do. Fine and dandy, but when it comes to high-technology, I think we ought to take a real hard look at it. If we are going to keep Certificate of Need, those doctors are going to be having that equipment outside of that setting and we are going to have constituents who need it as inpatients. That is the key -- inpatients. They are inpatients, they cannot use it if it is in a doctor's office -- the next piece of equipment.

I would hope that you take a hard look at this, because I will tell you, it is coming back and it will come back next year. I want to see the doctors involved in this. I am not saying doctors ought not to have some of this stuff, but we ought to address it if doctors are going to have high-technology. I will love to see the day when the Maine Medical Association comes in front of the Human Resources Committee and says, "Okay, we will look at Certificate of Need and be able to go under Certificate of Need. It will never happen, I guarantee you, it will never happen."

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

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

To the Committee Chair of Human Resources, if I read this L.D. 1786 correctly, it says, "The Department shall create a technology advisory committee and that the Department shall develop plans and criteria for reviewing Certificate of Need." I would just like to know, does the Department support

this L.D. and does the administration support this L.D.?

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

The Chair recognizes that Representative.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I think the gentleman from Lewiston understands what happens. We understand what happened Representative Boutilier -- the representative who represents the Maine Medical Association saw this and went right -- exactly you know where -- right downstairs to the second floor and said, "Look at what they are doing, they are getting us back under Certificate of Need." All of a sudden, the Governor's Office backed away from this and the Department of Human Services backed away from it. But I am telling you, ladies and gentlemen of the House, I would hope that the Governor of this state and the Department of Human Services of this state addresses this problem before we come back here again, because I certainly don't want to address this, come the middle of October, November, December and have a constituent who says they cannot use a new piece of high-technology because the Department of Human Services and the Governor's Office of this state doesn't want to handle it because the Maine Medical Association got down there and talked to them.

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

Representative TAYLOR: Mr. Speaker, Men and Women of the House: The arguments that have been brought to you today are valid, there is no question about that. You have heard them from your hospitals, we have all heard them from the health community. However, the argument is premature.

I would hope that all of you would vote against the Minority Report. We have an extremely extensive group looking into the entire hospital health community issue in the next year, and believe me, all of the arguments that have been stated this morning are going to be in that discussion and in that study. We need to consider it together with the Health Care Finance Commission package. We don't need another study group to look at it by itself. There has been an extensive study group that looked at it. We now need to take that information and combine it as we look at the hospital issue. Please do not be frightened by what you have heard today. We need to look at it, yes, we need to look at it in a timely manner, and this Minority Report will not help us much with it.

Representative Clark of Brunswick was granted permission to address the House a third time.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: Just a point of clarification, there was a Certificate of Need work group that did work all of last year. The Minority Report is their recommendation.

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

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: I would like to add to what Representative Clark has said, there was a study that was not a unanimous recommendation. Therefore, our committee decided not to deal with those things that came out of the Certificate of Need study that were not unanimous decisions.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of the Representative from Portland, Representative Manning that the House accept the Minority "Ought to

Pass" Report. Those in favor will vote yes; opposed vote no.

ROLL CALL NO. 116

YEA - Allen, Anthony, Baker, Bost, Carroll, Cashman, Clark, M.; Coles, Conley, Erwin, P.; Gurney, Hognlund, Holt, Jalbert, Kilkelly, Lacroix, Mahany, Manning, Mayo, McHenry, Melendy, Mills, Nadeau, G. R.; Paradis, J.; Paul, Perry, Pouliot, Rand, Richard, Rotondi, Smith, Stevens, P.; Tamaro, Tracy, Walker, Warren.

NAY - Aliberti, Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Boutilier, Bragg, Brown, Callahan, Carter, Chonko, Clark, H.; Cote, Crowley, Curran, Davis, Dellert, Dexter, Diamond, Dore, Duffy, Dutremble, L.; Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Gwadlosky, Hale, Handy, Hanley, Harper, Hepburn, Hichborn, Hickey, Higgins, Hillock, Holloway, Hussey, Ingraham, Jackson, Jacques, Joseph, Ketover, Kimball, LaPointe, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Macomber, Marsano, Martin, H.; Matthews, K.; McGowan, McPherson, McSweeney, Michaud, Mitchell, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Parent, Pines, Racine, Reed, Reeves, Rice, Ridley, Rolde, Ruhlin, Rydell, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Simpson, Small, Soucy, Stanley, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Swazey, Tardy, Taylor, Telow, Thistle, Tupper, Vose, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

ABSENT - Paradis, P.; Priest, The Speaker.
Yes, 36; No, 110; Absent, 3; Vacant, 2; Paired, 0; Excused, 0.

36 having voted in the affirmative and 110 in the negative with 3 being absent and 2 vacant, the motion to accept the Minority "Ought to Pass" Report did not prevail.

Subsequently, the House voted to accept the Majority "Ought to Pass" Report, the New Draft read once, and assigned for Second Reading later in today's session.

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

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Provide a Sales Tax Exemption on the Sale of the Self-help Literature on Alcoholism" (H.P. 73) (L.D. 76) reporting "Leave to Withdraw"

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Establish a Sales Tax Exemption for Sales to Incorporated Nonprofit Homes for the Elderly" (H.P. 110) (L.D. 120) reporting "Leave to Withdraw"

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Provide a Sales Tax Exemption for Nonprofit Animal Shelters" (H.P. 478) (L.D. 645) reporting "Leave to Withdraw"

Representative CASHMAN from the Committee on Taxation on Bill "An Act Concerning the Taxation of State Lottery Prizes" (H.P. 746) (L.D. 1009) reporting "Leave to Withdraw"

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

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

SECOND READER

Later Today Assigned

RESOLVE, to Establish the Juvenile Corrections Planning Commission (Emergency) (H.P. 1302) (L.D. 1781)

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

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

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

SENATE PAPERS

Unanimous Leave to Withdraw

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Provide Substance Abuse Prevention, Education and Treatment Services to Native Americans in Maine" (S.P. 114) (L.D. 287)

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act Providing a Sales Tax Exemption for Nonprofit Boarding Care Facilities Providing Treatment for Persons Suffering from Alzheimer's Disease or Related Disorders" (S.P. 138) (L.D. 377)

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act to Exempt from Use Tax Tangible Personal Property Used in the Construction of Portable Classrooms for Lease to School Districts in Maine" (Emergency) (S.P. 209) (L.D. 580)

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Raise the Compensation of District and Assistant District Attorneys" (S.P. 219) (L.D. 586)

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act to Exempt Alcohol and Drug Programs from the Sales Tax" (S.P. 226) (L.D. 620)

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act to Include the United States Internal Revenue Code, Section 457, State Deferred Compensation among the Retirement Plans which are Exempt from the Maine Premium Tax" (S.P. 260) (L.D. 741)

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Abolish and to Reorganize Certain Portions of the Department of the Secretary of State" (S.P. 544) (L.D. 1646)

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

Ought to Pass in New Draft

Report of the Committee on Utilities on Bill "An Act Relating to Significant Energy Agreements and Contracts by Electric Utilities" (S.P. 338) (L.D. 993) reporting "Ought to Pass" in New Draft (S.P. 604) (L.D. 1779)

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

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

Under suspension of the rules, the New Draft was read a second time, passed to be engrossed in concurrence.

The Chair laid before the House the following matter: An Act to Maintain Lifeguard Services in State Government (Emergency) (S.P. 415) (L.D. 1273)

(C. "A" S-119) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Representative Carroll of Gray, under suspension of the rules, the House reconsidered its action whereby L.D. 1273 was passed to be engrossed.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-119) was adopted.

The same Representative offered House Amendment "A" (H-280) to Committee Amendment "A" (S-119) and moved its adoption.

House Amendment "A" (H-280) to Committee Amendment "A" (S-119) was read by the Clerk and adopted.

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

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

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

I would like to ask the Chair of the Committee if he could explain the reason for this study.

The SPEAKER: The Representative from Gorham, Representative Hillock, has posed a question through the Chair to the Chair of the Committee who may respond if he so desires.

The Chair recognizes that Representative.

Representative CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: The reason for the study was a unanimous committee report to look at lifeguard services through the state government process.

We are one of a number of states who have state lifeguards at state-owned facilities and this will help us go into compliance with the U.S. Lifeguard Association programs and get our program accepted by that agency.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Dellert.

Representative DELLERT: Mr. Speaker, Men and Women of the House: I would like to ask you to think about this bill and vote not to pass it. I have spoken with the bureau at length about the lifeguard services. I am well aware of the need for good, qualified lifeguards. I have been an aquatic director for many, many summers at camps and know the need of well-trained and retraining of staff. I am also aware of the specialized training needed on our lakes and oceans here in Maine but lifeguards now are preventing accidents rather than just sitting in their towers looking for someone to call for help.

The Red Cross and the YMCA have very fine programs for retraining and are promoting all year long for lifeguard services. This department is also planning their own studies and I don't feel the need for further studies now. We have so many bills before this legislature asking for studies and for money that I feel our money could be much better spent in other ways.

I would request a roll call.

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

Representative CARROLL: Mr. Speaker, Men and Women of the House: I would like to point out that the department was present at the public hearing and spoke in favor of this legislation. The individual who is in charge of lifeguard services throughout the state was there and gave us more information, supported the position of the committee, a unanimous committee report, and I would hope you would back

that committee recommendation and vote to send this bill on its merry way.

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

Representative HILLOCK: Mr. Speaker, Men and Women of the House: There has been so many study recommendations here before us that we should all really look at this one. We have to draw a line here. The standards of lifeguards across this country are set and reevaluated constantly by the American Red Cross and the YMCA, whose task is qualifying lifeguards. I have been a lifeguard myself and I just can't see the government getting involved in this. I feel that the money certainly could be better spent elsewhere.

Just think about that when the vote is taken.

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

ROLL CALL NO. 117

YEA - Aliberti, Allen, Baker, Bost, Boutilier, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Hickey, Hoglund, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lisnik, Macomber, Mahany, Manning, Martin, H.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; O'Gara, Paradis, J.; Perry, Pouliot, Rand, Reeves, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Simpson, Smith, Stevens, P.; Strout, D.; Swazey, Tamaro, Thistle, Tracy, Vose, Walker, Warren, Wentworth, Zirkilton, The Speaker.

NAY - Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Bragg, Brown, Callahan, Curran, Davis, Dellert, Dexter, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Harper, Hepburn, Hichborn, Higgins, Hillock, Holloway, Ingraham, Jackson, Kimball, Lawrence, Lebowitz, Look, Lord, MacBride, Marsano, Matthews, K.; McPherson, Murphy, E.; Murphy, T.; Nicholson, Norton, Nutting, Paradis, E.; Parent, Paul, Pines, Racine, Reed, Rice, Richard, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Small, Soucy, Stanley, Stevens, A.; Stevenson, Strout, B.; Tardy, Taylor, Telow, Tupper, Webster, M.; Whitcomb, Willey.

ABSENT - Anthony, Crowley, Holt, Paradis, P.; Priest, Weymouth.

Yes, 75; No, 68; Absent, 6; Vacant, 2; Paired, 0; Excused, 0.

75 having voted in the affirmative and 68 in the negative with 6 being absent and 2 vacant, the Bill was passed to be engrossed as amended in non-concurrence and sent up for concurrence.

(Off Record Remarks)

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 Ruhlín of Brewer, Recessed until one o'clock in the afternoon.

(After Recess - 1:37 p.m.)

The House was called to order by the Speaker.

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

REPORTS OF COMMITTEES
Ought to Pass as Amended

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Provide a Sales Tax Trade-in Credit for Loaders used to Harvest Lumber" (H.P. 728) (L.D. 980) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-281)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-281) was read by the Clerk and adopted.

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

CONSENT CALENDAR
First Day

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

(H.P. 1183) (L.D. 1613) Bill "An Act to Continue the Potato Marketing Advisory Program" Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (H-282)

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

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

PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE

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

Labor

Bill "An Act to Ensure Confidential and Reliable Substance Abuse Testing of Employees and Applicants" (H.P. 1310) (L.D. 1788) (Presented by Representative MCHENRY of Madawaska) (Cosponsors: Senator DUTREMBLE of York, Representatives JOSEPH of Waterville and RUHLIN of Brewer) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Ordered Printed.
Sent up for Concurrence.

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

(At Ease)

The House was called to order by the Speaker.

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

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

ENACTOR
Emergency Measure
Later Today Assigned

An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Laws (S.P. 590) (L.D. 1743)

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

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

PASSED TO BE ENACTED
Emergency Measure

An Act to Clarify the Authority for Recruitment and Retention Stipends (H.P. 1192) (L.D. 1624) (C. "A" H-266)

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. 108 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED
Emergency Measure

An Act to Provide Assistance to Development Organizations in Labor Market Areas Facing Sudden and Severe Economic Dislocation (S.P. 592) (L.D. 1747)

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. 108 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 Establish an Exemption from the Waste Water Discharge Licensing Requirements for Owners and Operators of Marine Aquaculture Operations (S.P. 594) (L.D. 1751)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 111 voted in favor of the same and 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 Reestablish the Vehicle Rental Agency in the Department of Conservation (H.P. 1078) (L.D. 1465) (S. "A" S-138 to C. "A" H-251)

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. 108 voted in favor of the same and 5 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED
Emergency Measure

An Act to Amend the Sardine Tax (H.P. 1253) (L.D. 1711) (H. "A" H-258)

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. 109 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 Authorize the Increase of the Maximum Speed Limit to 65 Miles Per Hour (H.P. 547) (L.D. 734) (H. "B" H-252 to C. "A" H-212)

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

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

Representative SMITH: Mr. Speaker, Men and Women of the House: Last Friday I thought I had my mind made up on this issue and would vote for it but I have decided that I shall vote against it.

I travel 170 miles down on I-95 and 170 miles back. It extends about 30 miles where I get off. While traveling to and from my home, I travel slightly over 55 and I am passed continually, cars dodging in and out, some cut across sharply in front and you would almost think it was a two-way highway. I think the turnpike issue should be returned to the committee and they should address all issues we are concerned about and that is the Lewiston section, which cannot be raised, and I think we should have a means to properly control the speed. We do not wish to adopt the radar detector control and I don't see how you are going to keep the speed at 65. Simply saying, we cannot enforce it at 55, we are going to raise it to 65, to me, is a pretty weak reason.

So what we are saying by using that logic is that if we can't control it at 65, then we are going to continue to raise it to 75. Those with the radar detectors are not concerned at what the speed limit is set at.

I would hope that you would vote against this measure and let's do it right in the first place.

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

Representative BOTT: Mr. Speaker, Men and Women of the House: I have no intention of debating this issue. It has been debated very very extensively and we have had good, solid votes here in the House and the other body but I want to make one last appeal to those of you who have been opposed to this measure to vote in support of enactment of this bill as it requires a two-thirds vote.

The Commissioner of Transportation made it very, very clear that with a vote to increase the speed limit in both bodies, a legislative intent would be established and that he, acting on his authority, would raise the speed on Maine's Interstate highway system. However, I think it is very, very important

that we get the two-thirds here today so that the Fines and Enforcement Division would be allowed to take effect at exactly the same time the speed limit is raised.

I also feel very strongly that the other amendment that is attached to this should take effect immediately as well and that is the school bus amendment so we can take care of the safety of the children traveling in school buses while pursuing extra-curricular events. Even to those of you who are opposed to this measure, I respect your position, but I hope today you will vote for enactment of this so when the speed limit is raised, we can send out a quick message out there that the fines and the enforcement are being put into effect and that 65 means 65. We can also take care of the concerns about our children riding in school buses on the Interstate.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to make one comment. We have a section of road up in the Houlton-Haynesville area that they wrote a song about and I hope we don't have another song written because we have raised the speed limit. That song was, "A Tombstone Every Mile."

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I join my good colleague from Island Falls, Representative Smith, in opposition to this legislation. We state, quite clearly, in this House that we don't want to outlaw fuzz busters that would help enforce the 65 miles per hour speed limit and yet, we want to raise the speed limit.

We have attached a provision that says school buses can't go 65 because of safety reasons. They have to go 55. That doesn't make any sense to me.

We sit in this Chamber and debate energy standards and conservation and yet, we are going to pass legislation that is going to lead to greater abuse of petroleum products.

I would urge this House not to pass this legislation simply because it is an emergency and we need to have this take effect now. If you feel as strongly as I do against this legislation, I urge you to stay where you are.

This is improper legislation, in my mind, and it will cause greater problems than we are seeking to prevent here. I would urge this House to vote against the pending question.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: Now it has been brought up about the amendment addressing the school buses and I would like you all to take a minute and just think what that is about. It is whether or not you are for or against the 65 mile an hour speed limit. Here we have an amendment regarding a specific class of vehicle and by mandate from us, cannot go along with the flow of the traffic. None of us are naive enough to think that the speed limit at 65, the flow is going to be 65 to 70, but we are saying to all of the municipalities in the state, your buses can only go 55. Doesn't that register as a hazard? When we talk about flow of traffic, when we mandate that a certain segment, which carry our youth, our most important asset of the state, we are developing a hazard by the legislature. I can't believe this.

Hopefully, some of you people or the majority of us would see this. This really tarnishes the bill. Those of you who have voted for the 65 mile an hour speed limit should take this into consideration and hopefully get something back a little cleaner here.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Mills.

Representative MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I know that we have debated this for awhile but I would like to go over some of the facts again because I think we are being misled or some people might have ideas, I think, that possibly could hurt the bill. After hearing what I have to say, hopefully, they will think the other way.

As far as school buses go and whether or not we have them driving 55 or whether or not we should have them under a different law and whether or not that would affect the flow of traffic -- there is a possibility that having them drive 55 could make them slow down and I suppose that is true. But if you are concerned about whether or not we have a different law for school buses -- I think if we look at the current law on the books right now about school buses, we make mandatory that all school buses stop at railroad crossings. Now we don't make other vehicles do that, we only do it for school buses and we do it for a particular reason and that is because we have said, yes, school buses are different and they should be under a different law. We don't have people coming in here trying to repeal that law because it is slowing down traffic. I say to you that that does slow down traffic but we haven't had any more accidents because of it, we have had more safety because of it. So, I don't think having this amendment on making school buses different is any different than we have made in other areas of the law to have school buses different. We have them different because we feel that it is important to make them that way.

As far as the 65 mile an hour speed limit bill itself -- a lot of people seem to be under the impression that if we pass this law, we are going to be allowing people to drive 75 and 80. I could understand people being scared about that if we didn't already have facts and figures on the books but we already have facts and figures on the books where we had a speed limit higher than 65 and we know from those facts and figures that the majority of the people did not drive 75 and 80 any more than when the speed limit was 70. If we have it at 65, we know that the majority of the people right now drive 64 and the reason for that is, because it is reasonable.

Most people find that four lane highways that were built for 70 miles an hour find it strange that we have 55 mile an hour speed limits on roads that are two lane highways out here right now. They can't understand why they have a four lane highway at 55 and yet, we allow people on two lane highways to drive 55 also. That is because it is reasonable, I think, to drive 65.

Studies show that people have continuously driven at about 64, whether it was 70 miles an hour or 55 miles per hour. I don't think the accident rate is going to go out and become something terrible. As far as school buses go, we already have laws that are different. I hope that you will support the bill that we have already supported in this body before.

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

Representative ANTHONY: Mr. Speaker, Men and Women of the House: Just briefly, I wanted to inform those who don't realize it that we have a law on the books that defines imprudent speed as going 30 over

the speed limit. At present, someone going 85 or 86 miles an hour is subject to immediate arrest and can be taken down to the station. If this law passes and the speed limit is raised to 65, it is not until a person is going 95 or 96 miles per hour on the Interstate that that person is subject to arrest.

I would encourage voting against this measure.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: I really don't have a problem about people going 65 but does anybody here know of a railroad track that crosses the Maine Turnpike where you have to stop and that is what we are talking about here. Let's get away from the smoke and really deal with this issue that is really bothering me more than anything else. My boys, when they go to athletic events, I think they would be safer going along with the flow of traffic. I lived in southern California for awhile, you travel on an 8 lane highway and you are going 10 miles an hour below the speed limit, you are a hazard. It will be that way in Maine. School buses are less maneuverable than other vehicles on the highway so we should really consider this. Whether or not you are for the 65 mile an hour speed limit, I think is just unfortunate that this amendment got attached to this.

Another thing we talked about was the law and whether people obeyed the 65 mile an hour speed limit -- there are not many lawyers in here and it wouldn't take much of a lawyer to defend the speeding case of 66 miles an hour in a 65 mile an hour zone. They usually have that buffer so they make these speeding cases locked tight and does that mean it is 75 miles an hour? There is a legitimate defense for non-calibrated radar detectors, radar guns, and speedometers on cars so we should keep that in mind.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I had no intention today to speak on this bill because I thought it was taken care of some time last week but I feel that I must speak today because I was a sponsor of the amendment that some people here today are talking about.

I had a phone call a week ago on this amendment from my school administrator asking me if I would put an amendment in for school buses to do 55. If some of you would take some time and read the statutes, the statutes state in there that they can do the posted speed. My people in my town had a concern about that. As many as 18 people called me and different school administrations had the same concern. So I did a little bit of research. I called Colonel Demers of the Maine State Police and he told me, if he had his druthers, he would like to see the speed limit left at 55 miles an hour for school buses. Every administrator that called me felt the same way.

There is a big concern out there about school buses exceeding 55 miles per hour -- you have a high wind come down that Interstate, they lose virtually all control of that school bus so my main concern about putting this amendment in was for the safety of the kids. That is all. I hope people in this body don't fly like they drive.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Walker.

Representative WALKER: Mr. Speaker, Ladies and Gentlemen of the House: Does the Representative from Gorham realize that before we had the 55 mile an hour speed limit, we had a limit of 45 for school buses? I know because I drove one for three years.

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

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: Like my good seatmate said, that there is a minimum on the turnpike for school buses of 45 miles per hour. I don't think we are going to crowd anybody off the road or anything.

I had quite a problem with the fine on the 65 miles per hour but we worked hard in the committee and we came out with a unanimous committee report that we should bring the speed limit up to 65 miles per hour. I wish you would go along with that today.

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

A vote of the House was taken.

Representative Smith of Island Falls requested a roll call.

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

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

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

ROLL CALL NO. 118

YEA - Aliberti, Anderson, Armstrong, Bailey, Begley, Bickford, Bost, Bott, Boutilier, Bragg, Callahan, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Cote, Crowley, Curran, Davis, Dellert, Diamond, Duffy, Dutremble, L.; Erwin, P.; Farnum, Farren, Foss, Garland, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Hale, Hanley, Hepburn, Hichborn, Hickey, Higgins, Hognlund, Holloway, Holt, Hussey, Jackson, Jacques, Jalbert, Joseph, Ketover, Lacroix, LaPointe, Lebowitz, Lisnik, Look, Lord, MacBride, Mahany, Manning, Marsano, Martin, H.; Matthews, K.; McGowan, McHenry, McPherson, McSweeney, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Nicholson, Norton, Nutting, Paradis, E.; Paradis, J.; Parent, Paul, Pines, Rand, Reed, Rice, Ridley, Rotondi, Ruhlin, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Simpson, Soucy, Stevens, A.; Stevens, P.; Strout, D.; Tamaro, Tardy, Taylor, Telow, Thistle, Tracy, Vose, Walker, Warren, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

NAY - Allen, Anthony, Baker, Brown, Carroll, Conley, Dexter, Dore, Foster, Handy, Harper, Hillock, Ingraham, Kilkelly, Macomber, Mayo, Melendy, O'Gara, Paradis, P.; Perry, Pouliot, Reeves, Richard, Rolde, Rydell, Smith, Stanley, Stevenson, Strout, B.; Swazey, Tupper.

ABSENT - Kimball, Lawrence, Priest, Racine, Small, The Speaker.

Yes, 112; No, 31; Absent, 6; Vacant, 2; Paired, 0; Excused, 0.

112 having voted in the affirmative and 31 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
Emergency Measure

RESOLVE, to Study the Relationship between Nonprofit Service Agencies and Professional Liability and Other Hard-to-obtain Lines of Liability Insurance (S.P. 595) (L.D. 1752)

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. 128 voted in favor of the same and 2 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Amend the Law Pertaining to the Department of Corrections' Responsibility to Pay the Board, Care and Mental Health Treatment Costs of State Agency Clients in Residential Placements (S.P. 602) (L.D. 1765)

An Act to Ban the Use of Nondegradable Plastic Connectors for Containers (H.P. 912) (L.D. 1224) (C. "A" H-261)

An Act to Provide for the Issuance of Summonses (H.P. 977) (L.D. 1324) (C. "A" H-260)

An Act to Strengthen the Laws Relating to Food Safety (H.P. 1023) (L.D. 1381) (C. "A" H-262)

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

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

PETITIONS, BILLS AND RESOLVES

REQUIRING REFERENCE

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

Legal Affairs

Bill "An Act to Provide Discretion to the State Liquor Commission to Establish Temporary Agency Liquor Stores in Response to Natural Disasters" (Emergency) (H.P. 1311) (L.D. 1789) (Presented by Representative PERRY of Mexico) (Cosponsors: Representatives MURPHY of Berwick, PRIEST of Brunswick, and Senator KANY of Kennebec) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Ordered Printed.

Sent up for Concurrence.

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Expand the Sales Tax Refund for Agricultural and Other Equipment" (H.P. 744) (L.D. 1007) reporting "Leave to Withdraw"

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

PASSED TO BE ENGROSSED

Bill "An Act to Authorize Hospitals to Use Magnetic Resonance Imaging Devices Located in Private Physicians' Facilities" (Emergency) (H.P. 1303) (L.D. 1782)

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

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

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Judiciary on Bill "An Act to Revise the Harassment Law" (H.P. 984) (L.D. 1331) reporting "Ought to Pass" in New Draft (H.P. 1309) (L.D. 1787)

Signed:

Senators: BRANNIGAN of Cumberland
GAUVREAU of Androscoggin

Representatives: PARADIS of Augusta
COTE of Auburn
CONLEY of Portland
THISTLE of Dover-Foxcroft
VOSE of Eastport

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

Signed:

Senator: BLACK of Cumberland
Representatives: BEGLEY of Waldoboro
MARSANO of Belfast
MacBRIDE of Presque Isle
HANLEY of Paris
WARREN of Scarborough

Reports were read.

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

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Men and Women of the House: I would like to urge the House to reject that motion of the Chairman of the Judiciary Committee. I would like to speak in opposition to that motion.

This is the first time that I have had an opportunity to address this House and my greatest concern is that I will tell this House a lot more about this bill than it really wants to know. On the other hand, because the bill is, in my view, such an important piece of legislation, I intend to take that time.

I would like to point out to the House that I don't come to disquisition without having known something about the matter to which it speaks. As my last name indicates, I am of Italian extraction and I am the third generation of Italians that have lived in Belfast, the coastal community to which my Italian grandparents came almost 100 years ago. When they came to this country, they could not speak English and they had all the difficulties with language that any kind of immigrant or stranger to these shores experiences. Moreover, my mother's family was one which knew ethnic difficulties because my mother was the daughter of a French-Canadian who had the temerity to marry an English woman whose family had been driven out of Virginia at the time of the American Revolution. They were Loyalists and had gone to Nova Scotia, where my grandfather and grandmother met, married and came to Maine. The thing that I would like to point out is, although my family had had a history of running from various places, when they came to Maine, they found a place freedom, its culture, its heritage and it recognizes the kind of interrelationship based upon the type and the nature of the state, which this is.

Let me direct your attention now to the provisions of this bill and explain why it is that I think this bill ought not to become the law and why

people ought not to feel as though it offers any kind of safe haven.

The definition section in and of itself is conflict with some of the law which already exists. For instance, we have on the law books at the present time, Title 17A, section 506, a description of criminal harassment. The harassment statute, which is 17A, section 506 reads as follows: "A person is guilty of harassment if, without reasonable cause, he engages in any course of conduct with the intent to harass, torment, or threaten another person after having been forbidden to do so by any sheriff, deputy sheriff, constable, police officer, or notary public."

The harassment definition in section 3 of this bill deals with repeated acts of intimidation, harassment, physical force, etc. and that, obviously, is simply a self-defining sort of statement with respect to the initial part in Section 3. I urge you to read it and read it carefully.

Then it goes on in further confusing detail. It outlines lots of things which are accepted as being matters of Maine law already, race, color, sex, ethnic background. It deals with sexual orientation and there have been those who suggested that this bill really is intended to be a sexual orientation bill. That would be a reason for my being opposed to it, but it is not the only reason. I feel that all of the bill is not good and should not be adopted.

The sexual orientation provisions in and of themselves ought to be of concern to this legislature for nowhere in the bill is there the slightest description or definition of sexual orientation or what that means.

While this House spent some time, some days ago, involving itself in a consideration of what the meaning of that might be in another bill, that bill was not adopted, is not presently the law of Maine and therefore, you have this concept which is not included any place and a check through the words and phrases, which suggests these kinds of words might have meaning someplace showed me nothing when I reviewed it before making these remarks to you today.

I think you have to give some serious consideration as to whether or not this is, in fact, a sexual orientation bill.

Let me compare the way in which the Human Rights Act works with the way in which this act works. Frankly, this bill is simply a less bad version of an earlier bad bill which was before you as L.D. 1331. This bill essentially is a cut and paste bill, it takes certain things out of certain parts of the law and puts them into the position in which you see the statute as it is before you.

The provisions that are 4652 on Page two of the bill are simply a borrowing from the family violence provisions that exist in Title 19 which is where married people's problems are addressed by this body.

The Human Rights Act works by having the Human Rights Commission make investigations and, if necessary, taking questions which are incorporated in the Human Rights Act to court for enforcement if that should be the result of a decision by the Human Rights Commission.

With respect to the circumstances here, the difference is that once an allegation is made in a sworn fashion, and in that event, a person can go immediately to the courts to have the courts begin these proceedings.

I think it is important to call your attention to line 36 of Page 2 which makes it clear that only adults are entitled to the protection of this law. As I think you are aware, as I think everybody's human experience tells you, the kind of bad manners

which this bill is really dealing with -- those kinds of things are very often one of the actions that young children often take. The simple truth of the matter is that mostly it is children who are the cruelest.

I call your attention to the fact that there is some question as to whether or not the word "disability" in line 15 of the definitions applies to sexual disability or whether or not it represents an attempt to incorporate the phrase disability in and of itself, people who are deformed or crippled, things of that nature. It is unclear as to whether or not they are involved in this. But, in any event, it is the children who are the one's who are vicious towards other people and nothing is done about that. I know that that is so from a different source in addition to a kind of ethnic problems that I had as a child living in the State of Maine and in other parts of the country as I grew up. I also had the misfortune to be born with curly, very red hair, and big brown splotches. On many occasions, I would come home from school and be in tears while my mother would admonish me not to worry because, after all, stick and stones will break your bones, but names will never hurt you. It was a great way of reinforcing a little child's confidence to go on with the confrontations that occurred on a daily fashion but it certainly wasn't true and I knew that I was singing a song sort of like whistling in the dark.

The problem, as I see it, and I made the suggestion to the committee at one point that, if they would just simply include the only group that I am a member of that is really subject to harassment at least in this body, if they would put lawyers in here, then and under those circumstances, I might join the majority but they weren't about to do that and they weren't about to do it for a whole lot of reasons, not the least of them being that they feel as though our society is entitled to deal with those kinds of positions in the way in which people do.

I thought that it would be relevant to mention another group that is not protected and that is teachers. I would like to quote a poem from the 18th Century, it is just a little couplet and it won't take long. It goes as follows: "Of all of the griefs that harass the distress'd, Sure the most bitter is a scornful jest; Fate never wounds more deep the gen'rous heart, Than when a blockhead's insult points the dart." You might wonder what relevance this poem written in 1738 has. Its relevance is that this was the way in which Judge Carter of our Federal District Court introduced an opinion in which, on the First Amendment to the Constitution of the United States basis, he threw out an injunction and made a boy, who had given the finger (as he describes it, a digital posturing) the right to go back to his school because a teacher was not entitled to the protections of regulations in the school since they were confronted by the First Amendment of the Constitution of the United States.

You will notice that there is (what is in my view) an inactful attempt to deal with that in lines 18, 19, and 20 of paragraph 3 of this bill. What is protected speech? Well, that is one of the questions that has been argued down through the years. Since 1942, at the time when Chaplinsky versus New Hampshire became the law of the United States, the test has been whether or not the words are fighting words, whether or not they would incite criminal activity and, if they would incite criminal activity, then the words are a violation of the law and the criminal law is the guideline by which such conduct is not only tested, but by which it is prosecuted.

Justice Carter made it clear in his writing that he was not in favor of the language. I am going to quote from page 1441 of his opinion, which appeared in 635 Federal Supplement as of June, a year ago. He said, "It is deplorable that they (meaning the school teachers) should be required to fear such a recurrence, not just because they are teachers, but because they are decent human beings, living in a social environment that most people try to maintain on a more elevated level of social discourse. Under ideal circumstances, the effective response to out-of-school misbehavior would be the swift application of that parental discipline which is here roundly deserved." Well, that is, of course, the problem, the problem that deals with people who have bad manners or not taught proper conduct, who, in our society, test their own views in ways that are unsatisfactory to us as a caring social population. I suggest to you that this bill is not the answer to that problem.

If you look at the kinds of relief that the court can give, assuming that there is a complaint made, which appears on page 5 of the bill, you can see that most of the action which the court would proscribe is against the law, initially. A person has no right to go upon the premises of another. A person has no right to assault, molest, attack, or abuse a person under our law. A court order to simply say you must act in a mannerly fashion is a bad way of this legislature instructing society in the way in which it should govern itself.

It seems to me as though the matters that are raised here do not fit, just as no kind of action in which the family is involved, is relevant to the kind of activity which is attempting to be forbidden by this law or allow people to be protected against by this law. What the difference is is that, where the family is coming apart, the legislature saw fit to give the courts the opportunity as the parties move, usually towards a divorce, to be separated in some fashion so that it would be a calm and peaceful dissolution. That has been the thrust of this legislature's position with respect to the dissolutions of families for better than a decade now and it has been effective. Here we have contrasting theories, free speech theories and therefore, theories that should be carefully guarded against which is going to make it an extremely difficult problem if this bill should become law.

There are also problems with respect to warrantless arrests. It seems as though there is a question as to exactly what type of warrantless arrest is allowed. Those provisions appear on Page 7. They say that you may be arrested for a violation but it is only a Class D offense.

If you look at the next page, paragraph 5 on Page 8, you will see that there are certain kinds of arrest situations that can come into being. The bill purports to include 17-A Section 208 but that is probably already a situation which a warrantless arrest can take place since that law deals with aggravated assaults, not simple assaults that are prevented or proscribed by Section 207.

The bill is one, which does not seem to me, would be good for the people of the State of Maine. It does seem as though it will help society come to grips with what is a bad situation. Moreover, it allows the intervention of the courts into an area in which it seems to me the courts are going to be particularly ineffective. For that reason, I would urge you to vote against it.

As I conclude these remarks, I would like to tell you one more thing about my Italian grandfather who spoke broken English until the day he died. He wrote

a book. The book which he wrote is titled "The Strange Land." He faced many of the problems that many of the people who were the proponents of this bill face, for whom I have great sympathy, he faced them and when I would talk with him about why he wasn't concerned about some of the names that we would be called occasionally, he would laugh and he would talk about the right that everybody in the State of Maine had to buy property, to buy businesses, to do whatever they wanted. He did that. He recognized that there were some hard times, there were times when you were called names because of what you were, because of what you did, either for business reasons or ethnic reasons, religious reasons or whatever, but in any event, as a youngster when I would talk with him, he would tell me that this was a strange land but that it was a great land and it was this elasticity which gave rights to acquire property, rights to be involved, rights to own property, rights to do things that were paramount. For those reasons, I would like to see all of those criteria of this strange land, this free land, this wonderful land, be protected and I would like to see 1787 not pass and I would urge you to reject the motion to adopt the Majority Report.

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

Representative HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: I rise today in support of this legislation. Speaking for the Maine Committee on Aging as its House Representative, we endorse any measure which increases the protection against harassment for all individuals. Harassment should never be tolerated, it is always nasty, it is always malicious in its intent. Yet today, there are inadequate protections against it.

This bill is an all encompassing piece of legislation providing broad protection to vulnerable people. Harassment against the elderly is a reality in Maine. A constituent of mine, an older woman in Augusta, was being harassed and could not get protection. She became a captive in her own home. Finally, she decided to end this seclusion by buying a gun for protection. Do we want people to remain captives in their homes or be forced to purchase a gun in order to feel secure from harassment?

In the southern part of the state, an elderly gentleman was being harassed by local teenagers who forced him to give them his car on a regular basis. He feared to turn them in because of their threats. The situation resolved only because the teenagers got into an accident with the man's car and the police became involved. This gentleman should not have had to live in fear of these young people and be deprived of the use of his car.

In a housing project, an elderly family was continually harassed by a family across the street because they wanted the elderly couples' apartment. This family did everything in their power to make life so unpleasant for the elderly people that they would move out. No one should have to live under these conditions.

In a downtown area that offered a small park and benches, where many elderly people often sat, teenagers would harass them by tipping the benches or picking them up and dropping them as the elderly people were seated on them. Obviously, these elderly people feared to frequent the park in view of this treatment.

All of these situations are intolerable. I urge your support for this measure, which will provide some protection for vulnerable populations from this type of unconscionable treatment.

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

Representative CONLEY: Mr. Speaker and Members of the House: With all due respect to my Brother Marsano, whom I have a great deal of respect for and have learned a tremendous amount from, since he is an elder statesman from my particular profession, and having to hear two lawyers speak on any one bill probably should require the institution of some sort of a snooze alarm in here. However, I think I would like to address some of the points which he has brought up. Like he, I too, though younger, come from a history of an ethnic background and like he, my folks and their folks, went through many of the same sorts of incidents that his folks went through. However, society has progressed tremendously since that point in time and we have all recognized that those sorts of things were really wrong, that they weren't right. I would just like to address a couple of points which he made.

First, he suggested that the present harassment statute on the books addresses the needs which this bill supposedly seeks to address already. I would like the body to know that we heard evidence that the present law does not address these needs. D.A.'s are very reluctant to use the harassment statute on the books because it is very vague, difficult to enforce, and essentially has no teeth in it. This bill is very specific and outlines the particular type of conduct which we are trying to prohibit here.

Secondly, he suggested that this was the back door to introducing another sexual orientation bill. I would like to suggest that the good Representative could not be further from the truth. This bill deals with a wide variety of groups, all of whom appeared before our committee and testified.

As Representative Hickey indicated, there were many examples of elderly individuals who have been subjected to harassment and torment. There were people who showed up from a refugee project in Portland, who indicated some of the bias and bigotry they have had to put up with, merely because they speak in broken English. There were many, many examples too, of handicapped people and other minorities, blacks and yes, gay people who had been subjected to harassment. This bill does not create any new rights for these people, this merely allows them to enjoy the rights which each and everyone of us already have. It allows them to live in peace and quiet.

I would also like to suggest that this is not an extension of the Human Rights Bill. We are not asking employers or businesses or landlords to do anything. All we are doing is setting up a vehicle whereby somebody can go to court and get a judge, not a notary public, not a lawyer or police officer, to tell somebody to stop bothering somebody else. This is not a bill about free speech or bad manners. Is it free speech or bad manners to go and spray paint somebody's church? I had an article reprinted and circulated to the members of this body. In Massachusetts, which has legislation in this area, someone can actually charge someone else with a crime for that. That is a little bit different than going out and calling somebody a name. Is it free speech or bad manners to throw rocks at somebody just because they don't happen to look the same way you do, chase them down the street, run them out of town? I would suggest that that is a little bit more than exercising somebody's right to free speech, it is a little more than bad manners.

In summary, this bill is a very important bill to the people who appeared before our committee. No one person appeared to oppose this bill. The bill is

fashioned after a law which we have on the books, the Protection from Abuse statute which is used in domestic relations situations, a bill which has worked very well, which has been put into law to take care of the very same problem we are trying to avoid here, which is to keep harassment from becoming violence, to keep somebody from being hurt. This thing here puts the gate across that type of behavior and gives the judge the authority to get rid of that type of behavior and prohibit it.

When people are harassed or intimidated, merely because of their characteristics, this wrong is worse than almost any other type of wrong there can be. It is an attack on the democratic values which this country was founded on. It is an attack on our greatest strength, which is our diversity, that which makes the melting pot of the world, which this country is, as great as it is. This law is nothing more than another progressive step to help protect this country remain great and keep it great.

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

Representative COTE: Mr. Speaker, Men and Women of the House: I also rise to speak in favor of L.D. 1787. I was initially leery of this bill, but as I listened to the stories of the people who testified before our committee, I came to see the need for legislation that will protect Maine citizens against violence and harassment motivated by hate and prejudice.

One of those who testified, Sam Sok, a Cambodian refugee living in Portland, told us of a time when he took his family fishing. The men fishing next to them began to yell racial slurs at Sam's family and then threw beer bottles at them. When Sam's family packed up to leave, these men built a fire in the middle of the road to block their exit. These are frightening and degrading incidents. It broke my heart when Mr. Sok said, when he first came to this country, so many people used obscene gestures so frequently that he thought it was a sign American's used to say hello to him.

The committee also heard from a mother of a school age black child who told of the harassment her child had undergone. And, we heard from a gay man from Lewiston, who was repeatedly harassed. This man was chased, kicked, hit with an ax handle, and his life was threatened. He called the police 15 times but they couldn't help him. Finally, after 9 months of harassment, he shot and killed one of his harassers when the man broke into his home. His life has been ruined. He has had to leave town because the police told him they couldn't protect him. By the way, he was found not guilty, it was self-defense.

L.D. 1787 would have prevented this tragedy. This law is expressly designed to give the court and law enforcement agencies the tools to deal effectively with continuing harassment. Prior to L.D. 1787, these tools did not exist. Citizens who were victims of harassment, as in the case of the man from Lewiston, were forced to protect themselves without the assistance of the court or the police. And, as you can see, in the case of the man from Lewiston, where a man is dead and another life ruined.

Voting against L.D. 1787 would simply encourage such tragedies to occur again and again in the future.

Harassment is, unfortunately, a fact of life. We would all like to believe that such a thing does not exist in Maine. Unfortunately, it is a problem in Maine. This kind of harassment and violence hurts, not just the individual victims, but every member of the class to which he or she belongs. Harassment also hurts our society in general and tears at the

fabric of democracy which is the tolerance of diversity.

In researching this bill, the drafters found that prosecutors in the State of Maine do not use the current harassment law because it is unconstitutionally vague and doesn't define the prohibitive behavior. L.D. 1787 corrects these defects. It is modeled on the Protection of the Domestic Violence statute which has worked very well and provides protection against continued harassment. Domestic violence and harassment have this in common, they are not random acts of harassment, both continue over time because the motivation for harassment is continuous.

The committee worked hard on this bill. The Attorney General supports it, and an assistant Attorney General attended each work session, and helped clean some of the language. I am confident that we have a bill that will put teeth in the harassment law, but not trample on our right of free speech.

I am sure you have noticed, as I have, that those of us in this chamber greatly differ in our political and personal views but I am sure none of us want to see violence and harassment directed at individuals because of their real or perceived race, color, sex, ethnic background, nationality, country of origin, sexual orientation, religious belief, age or disability. As lawmakers who are sworn to uphold the constitution, we cannot allow it.

L.D. 1787 is viewed as an important tool which will do three things, provide prompt protection to persons who are the object of threat and violence, punish those who threaten or injure others because they are minority group members and demonstrate to the people of Maine both the existence of and our society's condemnation of hate motivated threats and violence. The incidence of harassment is increasing and we want it to stop.

By the way, I voted against the gay rights bill. Unlike that bill, this legislation does not place legal obligations on employers, landlords or businesses. This bill does not create any new rights, it merely helps these poor people get protection from people who are harassing and intimidating them. We all know this is going on, it happened in my town and I am sure it happens in your town.

I urge your support on L.D. 1787. L.D. 1787 will protect our citizens and it will protect our democracy.

The SPEAKER: The Chair recognizes the Representative from the Penobscot Nation, Representative Attean.

Representative ATTEAN: Mr. Speaker, Men and Women of the House: I rise today in complete and total support of L.D. 1787, "An Act to Revise the Harassment Laws." There have been many critical issues before this body in which I have remained silent. To name a few, the divestiture bill, the gay rights and others. However, in good conscience, I cannot remain silent on this issue, an issue which has affected not only me personally, but my people, not just for years, but for centuries.

Speaking for myself and in support of this bill which affects my people, I can say throughout my life I have been the victim of harassment, intimidation, and threats of physical violence. Part of this abuse has been because I am a woman, part because I am a divorced mother of five, but most of all, because I am an American Indian.

I could stand here and share story after story of this abuse, some of these stories still to painful to remember. Suffice to say, these episodes of abuse,

harassment, intimidation and threats should not be allowed to continue for any reason whatsoever.

This bill is aimed at a specific problem which exists in Maine's society whether we admit it or not and I stand here today to tell you that it does exist.

Members of certain disfavorite and less powerful groups are victims of harassment and biased-related abuse. It may not happen in Maine as often as in other states which are more urban and more violent than our state, but the fact is that it does happen here. It has happened to me in other states as well as in the State of Maine.

The hearings on this bill of which I testified in favor powerfully demonstrated that this problem exists for our immigrant Cambodians, for elderly people, for the handicapped, for the Indians, as well as for other groups.

The approach of this bill is reasonable and sensible. It is modeled after the Protection From Abuse for Domestic Violence, 19 MRSA Section 761, which has proven an effective means for individual victims of domestic violence to get temporary emergency relief. This is a simple procedure with which police, courts, and prosecutors are familiar.

The bill does not provide any additional rights except it does protect the rights of all our citizens to be free from violence and harassment. This bill will not solve the problem, we cannot legislate away hate and bigotry. However, it is a practical step in the right direction. It sends a message to Maine citizens that it is simply unacceptable to harass or target individuals because of their race, color, sex, ethnic background, nationality, country of origin, religious belief, age, sexual orientation or disability. Clearly, all our citizens should have the right to be free from violence and harassment directed at them because of characteristics which other individuals may not like. This bill is directed at that simple, critical goal.

I believe that this bill can clearly alleviate some of the problems existing in all stratum of Maine's society. It is a bill whose time has come.

Remember the prayers spoken this morning by Father Marquis. He spoke to these members to have compassion and mercy. I ask the same. I would urge your support in passage of this bill.

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

Representative HANLEY: Mr. Speaker, Men and Women of the House: I am envious of those who have risen before me and who so eloquently and confidently spoke on this issue.

This is a very difficult issue to deal with. It is one that everyone has to mull over in their own mind before they do make a decision. I agree that no one opposed this protecting people from harassment and that is exactly why we have statutes now which protect all Maine citizens from such harassment.

I would like to thank Representative Conley for handing out the article, which shows that there are cases of harassment. There are cases, as was pointed out in the article provided by Representative Conley, that would be protected by statutes that we have on the books presently. This is a very difficult issue and I am not going to try to convince this body that it isn't but if I might, I would like to try to simplify this issue down for those of us who do not have the expertise or knowledge that Representative Marsano possesses or Representative Conley or others who have a better understanding of the intricacies and the technicalities of such an issue.

There is one question that I had to ask myself before I signed this report out. It is the same question I will ask myself when the vote is be taken

today -- will my vote today, put every individual's right to freedom of speech in a precarious position? I am voting against the pending motion this afternoon because this question has not been answered adequately enough in my mind. I only ask of you if there is any question in your mind whether this will take away the freedom of speech that everyone presently enjoys, you must follow your mind on this vote after you have asked yourself that same question.

I oppose the motion of acceptance on L.D. 1787.

At this point, Speaker Martin appointed Representative Michaud of East Millinocket to act as Speaker pro tem.

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

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

Representative PARADIS: Mr. Speaker, Men and Women of the House: First of all, I would like to answer my fellow Judiciary seatmate, Representative Hanley from Paris. He said he was worried that perhaps some First Amendment freedoms might be curbed if this legislation were to pass by this body. I think that certain First Amendment rights would be curbed. There are certain young hoodlums, certain uncaring and irresponsible people, certain bigots who live in our state who would be barred by the courts from calling certain elderly people "old fogey's" or "old and senile people" that ought to stay in their homes, ought not to walk the streets of Maine. There would be certain people who probably would be barred by the courts from calling oriental people "slant-eyed yellow monsters" who should have stayed where they came from and not bother to come to our shores. There are even some people who would be barred by the courts by calling American Indians "red monsters" and should have stayed where they came from without ever knowing that this land was theirs long before we arrived here.

I don't believe the courts would ever uphold those First Amendment rights, that these people under the guise of the American Flag, would want to flaunt and abuse. I don't think there is anything in our Constitution and in the spirit of the Constitution which permits the type of actions going on today to continue to go on in the State of Maine.

I hope there isn't a cold wave coming over this chamber. I hope that as we move towards adjournment that the heat of the summer sun can warm this chamber, and more in particular, warm our hearts, so that we can see this bill in its real light as a bill that is aimed at protecting people, the people who are outnumbered in particular in our system, people who are powerless.

The story, I think, of the strong over weak, the powerful over the powerless, the have over the have-nots, will never end. I really think that in society we make progress, perhaps too slowly, but we do make progress but the evils that certain people exhibit will always manifest themselves in a free society. We will not stifle all free speech, we will not prohibit all personal action that is too horrendous, we would become the victims of our own policies. But this bill does none of that.

Other legislatures have sought to protect certain species of wildlife and, in particular, our own domestic animals. You know, we have more statutes on the books to protect domestic animals than we do our

own fellow human beings. If you don't think it is true, go down to the Law Library or read some of the newspapers that came out in March and April of this year when some members of this body sought to amend the Animal Protection Laws which starts to weaken them just a little bit. Every animal lover, God bless them all, came out with letters and phone calls and came to this chamber, came upstairs on the third floor and lobbied us, which was their right. But when it comes to our own fellow human beings, we turn a deaf ear. We say, maybe there is a little bit of discrimination out there, a little bit of harassment, but it isn't that bad. Other people learn to live with it, so can we. Times change, Cambodians might be a minority now; pretty soon they might be a majority. Another country falls to the Communists, you will have people from Angola here. If you lived in the south in Florida, you would have Cubans there escaping Communist Castro policies.

I cannot admit to you that there isn't harassment in this state and because I cannot do that, I am going to say that I support this bill. I signed my name to the jacket that said it ought to pass. I think that we live today, more than any other time in recent history, in a sort of a Rambo mentality. It is now popular because the freedom lies in the civil right marches of the 60's that have long since been forgotten.

If it wasn't on the six o'clock news in the last few weeks, it is ancient history. Today, it is popular to blow away somebody you disagree with, we see it in our films, on television shows -- there is no such thing as due process in the courts -- that is not what television is teaching our young -- blow them away, get a bigger gun, get the most modern of weapons and you can defend yourself against the onslaught of the minorities or anybody else that you might disagree with or feel threatened by. We don't see television shows and movies teaching tolerance. Once in awhile, you have a good movie like Gandhi, who teaches what human beings are really all about. We haven't seen many films like that lately. Rambo is the top box office attraction.

This bill, as was said earlier, was not opposed by any one group or any one individual in this state. Now, doesn't that tell you something? It was said that we might be trying to sneak something by, the Maine Legislature, by putting a gay rights bill, something under the carpet and letting it go by. Now, when have you ever known a Maine Christian Civic League to let a gay rights bill through this legislature without commenting? We didn't receive one comment from them on this bill and it was printed months ago. The Maine Committee on Aging testified in favor of this bill. If there is one committee in this state that has had as its foremost responsibility, for over 20 years, the protection and enhancement of the rights of the elderly, it has been the Maine Committee on Aging, bipartisanly. Republican, Democratic and Independent Governors have looked to the Maine Committee on Aging for guidance. Today Representative Hickey spoke in favor of the bill as a member of the Committee on Aging. The Maine Women's Lobby supported the bill for very obvious reasons. Women are subjected to more harassment than men are. Sad to say but very true. I think in your heart, you will agree with me. The Maine State Nurses Association supported this bill because it is good social legislation that uses the court to protect the rights of innocent people who are seeking to go to work, to go to the theatre, to go to the market, to go to church, to do what we take for granted because we are free citizens of a free

land. Most of us are of a lighter color than many other people are.

I would dare say if there was one person in this chamber who had been subjected to acts of harassment and intimidation, and if he or she were a friend of ours, wouldn't we stand up and want to defend them? Wouldn't we in the spirit of collegiality say, "I do not believe any one in this chamber, a Representative of the state, ought to be harassed in any way because he or she is a friend or a colleague." I would hope that we would do that. It is just as important if our constituents are harassed or intimidated.

In closing, Mr. Speaker and Members of the House, my friend, and he was a friend of mine before the hearing today and he will be a friend after, quoted from a poet of a couple of hundred years ago and I enjoyed his quote. It reminded me of a quote of a couple of thousand of years ago. It was the Greek poet, Aeschylus, who wrote "In our sleep, pain which cannot forget, falls drop by drop upon the heart until, against our will, comes wisdom through the awful grace of God."

I would ask you, my colleagues, in the final days of this First Session of the Legislature, to look into your hearts, drop by drop, to find that wisdom which I know that you possess, which I know that you have, and ask yourselves -- aren't there people out there that are subject to harassment and intimidation and wanton acts of violence, who are asking for a legitimate due process way of getting through their daily chores -- isn't that what the courts are there for, to protect the Bill of Rights for all of us citizens regardless of what color, red, white or black, French or Italian, Irish or Indian or Hindu -- it doesn't matter which. We are all children of God.

I urge you to support the motion of the Majority "Ought to Pass."

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

Representative PARADIS: Mr. Speaker, Men and Women of the House: Growing up there was a definite move to eradicate the French in us and I have to congratulate many of the speakers today who survived the attempt to eradicate their culture. However; the battle is not done. We are now adults, we are now empowered and nobody is going to mess around with us anymore but I know for a fact, speaking with a principal, who told me that they have some of these examiners come in to test children for learning disabilities and the number one problem is, if the parents are French speaking, that means that that is the child's problem. All testing stops at that point. I will not have any difficulty voting for this bill because ethnic harassment still continues and continues with children who cannot defend themselves.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Berwick, Representative Farnum.

Representative FARNUM: Mr. Speaker, Men and Women of the House: I am Scotch and English that makes me pure but, when I was a young kid, I moved into an Irish-Catholic neighborhood -- you talk about harassment -- you don't know what it is. On top of that, I went to a French school in Lewiston, Dingley School -- you talk about harassment, I was a minority every time. For years, I had a very strong dislike for the Irish and a very strong dislike for the French but I grew up and I learned to live with those people and those people learned to live with me. We did it, not because of laws, but because of the school teachers who taught us, because of the priests

and the ministers in our churches who taught us that all men were created equal.

Laws will never change ethnic feelings. To make things worse probably, I married a French girl. So I don't think this bill is good because I cannot see any way that it can be enforced. The only way that it can be enforced is through our homes, churches and through our teachers.

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

Representative RAND: Mr. Speaker, Men and Women of the House: Much of what I was going to say today has already been said but I would just like to clarify that, under present statute, the victim is required to send a letter to the perpetrator requesting that that person stop the offending activity. Up to this point, the law offers no protection. We, in effect, told victims that, although they are being repeatedly harassed and sometimes terrorized to the point where they even fear for their lives, they have no security under the law until they write a letter to their tormenters.

L.D. 1787 eliminates this parody of justice and grants immediate relief through the securing of a temporary restraining order.

I urge the people of this body to please vote with the Majority "Ought to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Men and Women of the House: To respond to some of the things that have been said I think is important, I can't help but be convinced that there is no one in this House who is not sympathetic to the problem to which this bill speaks. The problem is that the bill is not the answer.

If we think of the most recent of the reflective, hideous events that have occurred with respect to discrimination, in my mind, it is the reincarnation of the Ku Klux Klan's march in North Carolina just recently. They wanted to remarch but there was a parade in opposition, there was the constant contentions of the rights of free speech and some people thought that the march shouldn't be allowed. In any event, that is the testing muscle of a free society.

My learned colleague from Portland emphasized on two occasions that we are talking about a melting pot. The term melting pot is a term of art, it is a term which has involved in it the kind of heat, turmoil and bubbling that goes along with this expansiveness.

Representative Farnum, the school teacher, talks in terms of education and it is that which will gradually bring us to the floor. If you listened to Justice Brennan on ETV the other night as he talked about the way in which he had seen things happen during the course of his life. Yes, he had seen those kind of things progress.

What this bill does is that it attempts to lead into a breach that can't be stopped, closed or healed simply by the intervention of the court. The risks are great in attempting to do that.

Representative Cote talked in terms of that individual who came from close to her area, who had had to rely upon rights which were put upon him by the State of Maine with respect to self-defense. Self-defense is a part of the melting pot. Self-defense is a part of that system of laws which attempts to balance the kinds of freedom that we are talking about.

Representative Paradis was talking about not letting things happen. Yet, just a year ago, the courts of this state supported the right of a school

teacher of a whole school system to be subjected to a student giving them the finger. Now, what is this? What happened in that case was that the courts were doing exactly what Representative Paradis was suggesting to you would not or could not happen. The case is clear. A boy was, in fact, humiliating and harassing a teacher. The teacher attempted to seek a remedy through the disciplinary processes of the schools that were imposed. The same people who came to the legislature, the Maine Civil Liberty Union, to endorse 1777 went to court to get that little boy back into the school. What is all this about?

This is a part of the testing process of the First Amendment. It is a question of the First Amendment rights being isolated. In committee, and I used the word bad manners when I addressed you before because the Representative from Scarborough, Representative Warren, did it so eloquently and I do it so badly, — he talked quickly of bad manners, when he was talking about things such as the Hari Krishna's at the Portland Airport handing out information that you didn't want to receive. When that happens, there is some kind of verbal exchange. Now, under this bill, what will happen is that those people who would exercise their First Amendment freedoms would then be subjected to the Hari Krishna's going to court to get an order to stop. They can get civil damages, they can get all kinds of remedies. That is because they perceive what happens as harassment to them. They feel as though they are subjected to this burden and because they feel that way, then something happens in the courts.

I recognize that there are all kinds of accusations or labels or other kinds of words that are addressed to people — I am sympathetic to the Representative of the Penobscot Tribe, she was compelling when she spoke to us in the committee. The man from Vietnam or Cambodia, he was compelling when he talked about it. He was compelling because he created a feeling of sympathy but we must look beyond that to see what it is that the law will do with respect to the kinds of things that keep this country great, the things that keep this country free. It is an interrelationship that allows people to be very, very nasty to one another.

As the little boy in South Paris was nasty, Representative Paradis, to the school teacher and the courts defended the right of that little boy to be nasty. Now, that is the kind of testing that we need to have in mind and we need to ensure that the kind of strength of the fabric of our society continues. It is through education that we will overcome.

This will be the last time I address you. I had the opportunity in 1964, when a college professor of mine was working for then Senator Edmund Muskie, to be in Atlantic City and that was the time when the Mississippi Freedom Democrats were involved in attempting to get blacks into the elective process. I sat for two nights in the Convention Hall in Atlantic City solely on the condition that I would keep my mouth shut. I sat there, while outside, all of the great songs of the 60's, "We Shall Overcome" songs were being sung and I recognized then what a tragic sacrifice was made by those people who were involved in the Philadelphia massacre in Mississippi just some weeks before. It was a great testing time for this country and this country has emerged.

As Justice Brennan said the other night, "We have seen so many changes but they come and they must not come at the expense of our freedoms." It is this testing which we must protect and preserve.

I would urge you to vote against the pending motion. I would request a roll call.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: First of all, I am surprised that the Representative from Belfast who took the time to read the bill to us earlier in the afternoon has ignored the statement on Page 2, section 3, that talks about repeated acts. The individual who comes and tries to give you flowers in the airport will not fall into this category. My concern about this bill and the debate that I am hearing goes deeper.

I was not in this chamber in 1979 when the law that we passed then, the Domestic Violence and Protection from Abuse Law, went into effect. I suspect we would have heard many of the same arguments then. I suspect that we probably would have heard that the abusing spouse, usually the husband, has a constitutional right to harass, intimidate, and beat his wife because that is what we once thought.

Ladies and gentlemen, we passed a law to say to people in this state that that was not acceptable behavior. It is wonderful when teachers, clergymen, and ministers tell all of us, help us determine what is appropriate and inappropriate behavior. There are times when we need to go further than that, when we as legislators, need to say, enough. That is why we are here, that is why we pass laws. We put teeth in the statement that says, it is not acceptable to throw rocks at elderly people so they can't go to the grocery store. We pass laws that say, it is not okay to make harassing phone calls. We pass laws that say, you, whether you are a teenager or a young adult or not, you can't taunt and jeer people. We pass laws so people don't feel they have to go out and buy a gun and shoot their assailant. That is what this law is about. This law is to make sure that other people, like Mr. Gravelle, like the senior citizen that Representative Hickey told us about, it is about those people not having to take the law into their own hands because we didn't have the backbone to pass a law that is needed.

By passing this law, we say to everyone, this behavior is not acceptable. Yes, some people will continue to do it but then there is recourse in the law. Many people will not. Again, we know that from the Domestic Violence Law, a law that is on the books, a law that works. I urge you, men and women of this House, to please vote to accept L.D. 1787.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Paris, Representative Hanley.

Representative HANLEY: Mr. Speaker, Men and Women of the House: I rise again just to point out that the voices are starting to work up a pitch. It is becoming an emotional issue and, yes, harassment is an emotional issue but I don't think it is an emotional issue in this chamber. Both sides, the people who signed the Majority and the people who signed the Minority, are opposed to harassment. I can't state that strong enough. Our only contention is that this bill will not do what you want it to do and it will take away certain rights that everyone in this state presently enjoy.

We are not against any legislation that will protect people's right for freedom of speech, protect people's right to go to the grocery store, protect people from harassment. Every one in this body has got to be for that and I don't think there is anyone that can try and drag this into being one side for harassment and one side isn't for it because that is totally untrue.

There are good reasons why some of us who are opposed to this legislation rise today and cannot support this bill as drafted. The reasons are not

because we don't want people protected from harassment. We do. We also want people to have their freedom of speech protected. We want all people in the state protected. That is still why I will be voting against this measure.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Men and Women of the House: I seldom speak on bills that I am not directly involved in but something very curious seems to be occurring, it seems to me. The opposition to this bill has expressed a lot of concern and sympathy for victims of harassment. The Representative from Paris just said how concerned he was and how something ought to be done. But he is not proposing anything. There is only one alternative before us — yes or no. The Minority Report is not the alternative, it does not take care of the technical details, which they have nit picked at in this bill.

It simply says that we should have no bill at all. This bill is the bully bill. What we are deciding is, do we allow bullies freely and with immunity to harass people, to bully people or do we not? We should not.

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

Representative BAKER: Mr. Speaker, Men and Women of the House: I am very glad that the Representative from Belfast, Representative Marsano, brought up the Ku Klux Klan. He made reference to the fact that the Ku Klux Klan staged a march in North Carolina. What I would like to call your attention to, and you may have been reading it in the papers in the last few weeks, that the Ku Klux Klan has been stuffing the mailboxes of some of the towns that are in our own state, Gray and Minot. Frankly, the Ku Klux Klan are entitled to their opinion. And if they are just an organization that spotted their opinions, I would not have much of a problem, but the Klan has a record of engaging in acts of harassment, intimidation, and violence. I would love to have this law on the books in this state, because it would be a wonderful tool to use against the Ku Klux Klan, no matter how small they may be in our own state.

Representative Hanley made a comment about whether or not this is an infringement on free speech. First of all, I would like to read that section of the proposed law on harassment. "Harassment means any repeated act of intimidation, harassment, physical force, or threat of physical force, whether or not performed under cover of law, directed against any person, family, or their property." It goes on from there. I suggest that this description is a far cry from the obscene gesture that the student made to the teacher. As I was saying, this is a far cry from that gesture, because we are talking about repeated threats of physical force.

On the question of free speech, I would like to call your attention to something about this bill. I don't care if it is late in the session, this happens to be a very important issue. In fact, it may be one of the more important issues that we have dealt with all session. It is important because we, as legislators, are supposed to be here to protect the rights of people. A very interesting coincidence that the L.D. number is 1787, the year we established the Constitution. I cannot think of a more important issue than protecting people from abuse. It bothers me that it may be treated so trivially among people. You know there is a difference between free speech and yelling "fire" in a crowded theater. This type of behavior is yelling "fire" in a crowded theater. Somebody asked the question, "What will this bill

do?" This bill provides injunctive relief from harassment, which currently you cannot get. So the bill does something.

Finally, one should not have to resort to shooting or maiming someone simply to protect themselves from harassment. I do not think that is a very good defense against passing this bill. As lawmakers, we are here to uphold the law and make the law work. We do not want to give encouragement to acts of vigilantism. We have to be responsible and we have to see that, if we have a law on the books and there is a way to improve it to make it truly enforceable by providing injunctive relief, then we should pursue that course.

Representative Hanley of Paris was granted permission to address the House a third time.

Representative HANLEY: Mr. Speaker, Men and Women of the House: This will be the last time I rise. I just wanted to take care of a few of the statements that have been made previously.

The Representative from South Harpswell, Representative Coles, brought up the fact that the Minority Report was only a vote for no, that we didn't want any protection from harassment. If Representative Coles had been in touch with the committee and those of us who signed on the Minority Report, he would have learned that this bill was taken up in work session in the eleventh hour when we had deadlines to meet. If he had asked and had taken the time, he would have found out that the Minority side had been toying with the idea of coming up with an aggravated harassment bill, one that would in fact accomplish what the sponsors wanted to do, and also what those on the Minority Report would feel secure about. That is why we voted no. Yes, we do want to have something that would protect those that are being harassed even further, but we could not sign onto this.

Finally, for the Representative from Portland, Representative Baker, (I always enjoy his flair in giving testimony to this body) I wish that he would also pay me the courtesy of listening to my testimony when I give it. As far as my point on freedom of speech, I am well aware of its place in the bill. My only statement was, and it was more of a question, would the citizens' of Maine freedom of speech be put in a precarious position if this bill were passed. Would a gray area be created? That is a question I have asked myself and will continue to ask myself and I will still have to vote no on this issue.

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

Representative DIAMOND: Mr. Speaker, Men and Women of the House: Our debate has gone on for quite a long time now and I am sure that everybody here thinks they know where they are going on this bill. I have been disturbed though by some of the things that have been said by the opponents of the Majority Report and think that they need clarification.

A number of times throughout this session we have had members of this body, especially people on the other side who have gotten up and said it is time we get government off our backs, that government stop interfering with our lives, and let the people of this state live the way they want to regardless of the consequences, in some cases. It is true, in many cases, we do want to get government off our backs but I also think that sometimes we need government on our side. This is one of those instances where we do have an opportunity to put government on the side of people. Rather than hide behind the argument that, by passing this bill, we are going to find the constitutional rights of some people infringed upon by the protection afforded others in this bill. I

think we need to look at the people who are being subjected to the harassment that we are trying to address here and recognize that their rights are at even greater jeopardy than those we are trying to protect with the arguments of the opponents. It is very easy to stand here and say on the floor that their intentions are noble, but their actions may not be. I think that that is what we are going to find if we reject the Majority Report before us.

If there are members of this body who are troubled by some language here, contained within this bill, if they find that there is some fine tuning that needs to be done in order to accomplish and accommodate the concerns of those who feel that those who have been harassed need protecting, then they will have an opportunity to do so in second reading on this bill, if it gets beyond this point. But if you kill the bill off now, saying that it is not exactly how you like it, you will never have the opportunity to do so.

I think this legislature stands for protection of all people. We are obligated to do so. We come here swearing that we are going to do so. I think that if we adopt this bill, we will have the opportunity to accomplish that goal. Again, there will be further opportunity to amend it, to make it more to your liking if that is your desire, but I think it is a big mistake to reject it, to hide behind some sort of argument that we are in the eleventh hour, that it hasn't been considered thoroughly enough. The bill has been around a long time, the issue has certainly been around a long time. Anybody who listened to the cases that were presented on the floor of this House in the past hour and a half or two hours, I don't think there is any question that this bill is deserving of our support.

Mr. Speaker, I would ask that we move along on this bill now, deal with it, hopefully put it in a posture so that, if any amendments are necessary, we can do so when the bill comes to us in second reading.

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

Representative BAKER: Mr. Speaker, Ladies and Gentlemen of the House: Just one comment, I didn't want to jump up in the middle of anyone else's speech. Number one, with regards to my speaking style, I wish to assure Representative Hanley that I don't get up to talk just to hear myself talk, I am trying to make a few debating points. As to whether or not I am paying attention -- yes, I am listening to what the gentleman says. I may not be making eye contact with him but yes, I am listening to him and I certainly am not talking while he is making a speech.

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

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

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

Representative RYDELL: Mr. Speaker, Ladies and Gentlemen of the House: I don't wish to prolong this debate, but I do feel it is important as people come in who have been out in the hall and who have not heard the part of the debate, to remind ourselves that this bill is an anti-hate, violence bill. It is a very special kind of violence because it is violence, or threatened violence, based on hatred or bias against people because of the group that they belong to. It is very hard for us as Americans to

accept that that is going on in our society, that it is going on in Maine, but we have been forced to accept it and we now have an opportunity this afternoon to do something about it.

This bill will also help to prevent crimes that are based on hate or bias directed towards a specific group. No one in this body, I would hope, and I repeat, no one I am sure, condones violence against any other citizen of Maine. As legislators, we have this responsibility to be sure that our laws protect our citizens, all of our citizens, and that they have the right to protection from harassment and hatred.

Our current law is not strong enough. This protection from harassment is so fundamental and basic that it should be taken for granted, but we cannot take it for granted because there are people who are subjected to this harassment everyday, subjected to it because of the minority group that they belong to. They are subject to threats, repeated acts of intimidation, physical force, or threat of physical force, because of some personal characteristic, whether they are black, Indian, Jewish, elderly, gay, or handicap.

I cannot believe that anybody in this body would tolerate such violence. If you saw it happening, you would try to stop it. This afternoon you have the chance to stop it. You have your vote. You have the ability to cast your vote to stop this kind of violence in our state. I would ask you to remember that this is a bill about acts of violence, repeated threats, or repeated attempts at intimidation. It is not about parades, it is not about name calling. It is far more serious, it does not infringe upon anyone's freedom of speech.

We will still be stopped by persons in the airport trying to give us religious material or trying to convince us to believe in what they believe in, but that is not what this bill is about. I repeat, it is about violence. We cannot provide every member of our minority groups in Maine with personal bodyguards, and we certainly wouldn't want to reach the point where that would be necessary, but it is necessary to strengthen our harassment law. Please today, vote to accept the Majority Report so that we can put the teeth in that law that is desperately needed.

At this point, the Speaker resumed the Chair.

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

ROLL CALL NO. 119

YEA - Allen, Baker, Bost, Boutilier, Carroll, Cashman, Chonko, Clark, M.; Coles, Conley, Cote, Crowley, Curran, Dellert, Diamond, Dore, Gould, R. A.; Hale, Handy, Hickey, Hoglund, Holt, Joseph, Ketover, Kilkelly, Lacroix, Mahany, Manning, Mayo, McGowan, Melendy, Michaud, Mills, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Gara, Paradis, J.; Paradis, P.; Parent, Paul, Perry, Pouliot, Rand, Reeves, Rolde, Ruhlin, Rydell, Simpson, Stevens, P.; Tamaro, Taylor, Thistle, Tracy, Tupper, Vose, Walker, The Speaker.

NAY - Aliberti, Anderson, Anthony, Armstrong, Bailey, Begley, Bickford, Bott, Bragg, Brown, Callahan, Carter, Clark, H.; Davis, Dexter, Duffy, Dutremble, L.; Erwin, P.; Farnum, Farren, Foss, Foster, Garland, Greenlaw, Gurney, Gwadosky, Hanley, Harper, Hepburn, Hichborn, Higgins, Hillock,

Holloway, Hussey, Ingraham, Jackson, Jacques, Jalbert, LaPointe, Lawrence, Lebowitz, Look, Lord, MacBride, Macomber, Marsano, Martin, H.; Matthews, K.; McHenry, McPherson, McSweeney, Moholland, Murphy, E.; Murphy, T.; Nicholson, Norton, Paradis, E.; Pines, Reed, Rice, Richard, Ridley, Rotondi, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Small, Smith, Soucy, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Swazey, Tardy, Telow, Warren, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

ABSENT - Kimball, Lisnik, Priest, Racine, Stanley, Webster, M..

Yes, 59; No, 84; Absent, 6; Vacant, 2; Paired, 0; Excused, 0.

59 having voted in the affirmative and 84 in the negative with 6 being absent and 2 vacant, the motion to accept the Majority "Ought to Pass" Report did not prevail.

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

Representative ANTHONY: Mr. Speaker, having voted on the majority side, I now move reconsideration of this measure and ask that it be tabled for one legislative day.

The SPEAKER: Representative Anthony of South Portland, having voted on the prevailing side now moves that the House reconsider its action whereby the House failed to accept the Majority "Ought to Pass" Report and further moved that it be tabled one legislative day.

Representative Marsano of Belfast requested a roll call vote.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from South Portland, Representative Anthony, that L.D. 1787 be tabled one legislative day pending his motion that the House reconsider its action whereby the House failed to accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 120

YEA - Allen, Anthony, Baker, Bost, Boutilier, Carroll, Cashman, Clark, M.; Coles, Conley, Cote, Curran, Dellert, Diamond, Dore, Dutremble, L.; Erwin, P.; Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Hichborn, Hickey, Hoglund, Holt, Jacques, Joseph, Ketover, Kilkelly, Lacroix, Mahany, Manning, Mayo, Melendy, Mills, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Gara, Paradis, J.; Paradis, P.; Paul, Perry, Pouliot, Rand, Reeves, Richard, Ridley, Rolde, Ruhlin, Rydell, Sheltra, Simpson, Stevens, P.; Tamaro, Thistle, Tracy, Tupper, Vose.

NAY - Aliberti, Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Bragg, Brown, Callahan, Carter, Chonko, Clark, H.; Crowley, Davis, Dexter, Duffy, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Harper, Hepburn, Higgins, Hillock, Holloway, Hussey, Ingraham, Jackson, Jalbert, LaPointe, Lawrence, Lebowitz, Look, Lord, MacBride, Macomber, Marsano, Martin, H.; Matthews, K.; McHenry, McPherson, McSweeney, Michaud, Moholland, Murphy, E.; Murphy, T.; Nicholson, Norton, Paradis, E.; Parent, Pines, Reed, Rice, Rotondi, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, Soucy, Stevens, A.;

Stevenson, Strout, B.; Strout, D.; Swazey, Tardy, Taylor, Telow, Walker, Warren, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

ABSENT - Kimball, Lisnik, McGowan, Priest, Racine, Stanley, Webster, M.; The Speaker.

Yes, 61; No, 80; Absent, 8; Vacant, 2; Paired, 0; Excused, 0.

61 having voted in the affirmative and 80 in the negative with 8 being absent and 2 vacant, the motion to table one legislative day did not prevail.

The SPEAKER: The pending question now before the House is the motion of Representative Anthony of South Portland that the House reconsider its action whereby the Majority "Ought to Pass" Report was not accepted. Those in favor will vote yes; those opposed will vote no.

A viva voce vote being taken, the motion did not prevail.

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

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

REPORTS OF COMMITTEES

Ought to Pass in New Draft

Representative CARROLL from the Committee on State and Local Government on Bill "An Act Dealing with the Authority of Harbor Masters" (Emergency) (H.P. 254) (L.D. 327) reporting "Ought to Pass" in New Draft (H.P. 1315) (L.D. 1794)

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

Ought to Pass in New Draft/New Title

Representative HUSSEY from the Committee on State and Local Government on Bill "An Act Concerning Removal of Submerged Watercraft in Coastal Waters of this State" (H.P. 992) (L.D. 1338) reporting "Ought to Pass" in New Draft under New Title RESOLVE, Requiring the Department of Conservation to Study the Problem of Submerged Watercraft in Coastal Waters of the State (Emergency) (H.P. 1316) (L.D. 1795)

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

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

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on State and Local Government reporting "Ought to Pass" on Bill "An Act to Name the Finback Whale as the State Marine Mammal" (H.P. 368) (L.D. 482)

Signed:

Senators: TUTTLE of York
BALDACCI of Penobscot
GOULD of Waldo

Representatives: CARROLL of Gray
HUSSEY of Milo
ANTHONY of South Portland
LOOK of Jonesboro
LACROIX of Oakland
BOUTILIER of Lewiston

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

Representatives: BICKFORD of Jay
STROUT of Windham

WENTWORTH of Wells
ROTONDI of Athens

Reports were read.

On motion of Representative Carroll of Gray, the House accepted the Majority "Ought to Pass" Report, the bill read once.

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

Representative Taylor of Camden offered House Amendment "A" (H-284) and moved its adoption.

House Amendment "A" (H-284) was read by the Clerk.

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

Representative TAYLOR: Mr. Speaker, Ladies and Gentlemen of the House: You have before you, I hope, House Amendment "A" which I would like to propose you consider instead of the present amendment to the bill. As you might guess, I am proposing that the State of Maine have a state mammal, not the finback whale, but my obvious choice, which is the harbor seal. It is natural, of course, because of Andre who resided in Rockport Harbor for years. It is probably safe to say that many of you have seen Andre. It is safe to say that many people come to our town and bring their children to see Andre do his tricks. Andre died this last year and we miss him. Andre was a total ham, he loved every minute of it. Anybody who worried about him being in a pen and being fed fish should know, if you have watched him, that he loved it.

There is a serious reason, however, that I would like to propose this amendment to you and I would like to read a short letter to you from Harry Goodrich from the town of Rockport, who was Andre's trainer for years -- his only trainer I might say. "Dear Priscilla, the harbor seal that frequents the east coast is known as the Maine harbor seal. There is neither a Massachusetts harbor seal nor a Florida harbor seal, nor anything in between. The one thing that makes this sea mammal uniquely Maine's is the fact that it rears its young only in Maine waters. A certain percentage of the seals spend some of the winter months off New Hampshire and Massachusetts, but by May fourth or fifth, they are all back in Maine to give birth to their pups. How can any other sea mammal be considered Maine's state marine mammal? Sincerely, Harry. P.S. They do not eat lobsters, they do sometimes try for the fin fish in the lobster traps."

Therefore, ladies and gentlemen of the House, I hope that you might consider House Amendment "A."

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Salsbury.

Representative SALSBURY: Mr. Speaker, Ladies and Gentlemen of the House: The title of this bill is "An Act to Name the Finback Whale as the State Marine Mammal." I don't see how you could change this now and make it a seal with the title such as it is. Mr. Speaker, is this amendment germane to the bill?

The SPEAKER: The Chair would inquire of any member of the body whether or not the seal is from the family of finback whales?

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

Representative SCARPINO: Mr. Speaker, Ladies and Gentlemen of the House: Other than the fact that they are both mammals and both marine mammals, there is no direct relationship.

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

Representative WENTWORTH: Mr. Speaker, Members of the House: For what it is worth, the whale only spends two months here, the seal is a Mainiac.

The SPEAKER: The Chair will make a ruling that House Amendment "A" is not germane.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I move that this bill and all its accompanying papers be indefinitely postponed.

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

Representative CLARK: Mr. Speaker, Men and Women of the Maine House: I hope you don't go with the indefinite postponement. I don't have a letter from the trainer of Andre the seal, but I do have quite a few letters from students at a school in Millinocket that took this on as a class project. I hope you go with the Majority Report and don't kill this bill because it will mean a lot to the students throughout the state. I know that there will be other people here to speak on this today.

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

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I would request a division on the motion.

I, too, hope that the members would not vote to indefinitely postpone this bill. Those that are members of the State and Local Government Committee had opportunities to hear testimony as to why the finback is deserving of being given this honor. There is a research organization near my area in Bar Harbor, Maine called Allied Whale. They have research facilities there in Bar Harbor and also an outpost at a place called "The Rock."

Finbacks also are like seals, do come and go to areas of Maine and then sort of progress south during the winter and then come back. They are able to identify these whales. They are, in fact, the same whales that return each year. Representative Wentworth suggested to you that the seals stay here. Well, I suppose that some do but, obviously, some do not. Andre used to make his way down and so did a number of others, I am sure.

The finback for many, many years has been hunted by man and has been threatened with being an endangered species for some time. But, in recent years, has been making a bit of a comeback and will continue to do so as the pressures on hunting them continues to decrease as the years go on. They are a highly intelligent creature, a creature that has given the students of this state and the schools that have taken the time to study them a fantastic learning experience and one that has given them a much better understanding of the finback.

If you go on a whale watching trip in the State of Maine, the whale that you will most likely see off the coastal waters of the State of Maine would be the finback whale. Any of you who have taken the time to go on one of these excursions, I am sure, have enjoyed it as much as the many, many tourists and people of Maine that have taken that trip each year.

For the children of this state, I realize that passage of this bill recognizing the finback as the official marine mammal, in the overall scope of things, isn't going to change the lives of any member of this body, just as the establishment of the Maine coon cat, a number of years ago, did not alter our daily lives in any way. It did, however, provide an opportunity for the children to learn something more about the largest living creature that we have, really on the face of the earth today. That is something that is very much worth their while to learn about.

For that and many other reasons, I hope you will not go along with the motion to indefinitely postpone but rather will go along with the recommendation of the majority of the members of this committee who had the opportunity to listen to the testimony and who agree this bill is worthy of passage.

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

Representative SCARPINO: Mr. Speaker, Men and Women of the House: Most of you who have listened to me over the past five years are well aware of the fact that I do a lot of speaking for the fishing industry having it the prime source of economy in my district.

I would hope that you would not vote to indefinitely postpone this bill because some of those very people are their antecedents that I now represent attempted, over a long period of time, to indefinitely postpone the finback whale. We happen to be very lucky that, through some international agreements, the hunting for (you can't really call it fishing), this particular mammal was stopped or has been reduced.

I don't know whether you are aware of the history of the finback but, in the old whaling days and old sailing ship days, they could always tell the greenhorn because a greenhorn tried to catch the finbacks. They were too fast for the sailing vessels and they couldn't catch him. But, when the whaling industry modernized, when they went to powered vessels with harpoon guns capable of great ranges and great accuracy with explosive heads, they started to hit on the largest whale population we had left, which was the finbacks and came darn close to totally destroying them. We have a few left, they are in the waters of this state. I don't know if any of you have ever been offshore, not even that far offshore, and seen one of them, I have had a couple come up and blow right alongside my lobster boat when I was fishing. Let me tell you, once my heart got back down to where it belonged, it was really a magnificent sight. I think that the species deserve protection, it deserves recognition and I don't think we could find a finer marine mammal for this state. I would urge your opposition to this indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I rise to urge you to support the bill as it is written. If any of you have ever seen the whales in the ocean off the Atlantic, it is a marvelous sight, one that you will never forget.

I have also visited the whaling museum in the Hawaiian islands. This is an industry that is long gone, thank goodness.

I do want to point out one thing, that those of us who listen to the fishermen and learn their concerns of how the seals, as predators of the lobster, they are very much concerned. I do not think that it would be a good signal for us to tell the lobster fishermen that the seal is the state mammal.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: I did not make the motion to indefinitely postpone this bill lightly, and I did not do it as an affront to people who regard the finback whale as I do, as a beautiful mammal and something to be treasured by this state. I made the motion to indefinitely postpone this bill because

Representative Taylor's amendment to change the bill to make it the seal was ruled non-germane. We all have to understand that we try here to be good representatives for our areas.

In my area, Andre the seal, is right up there with presidents of the United States and other dignitaries and religious leaders and people like that. The school children in my area will say to me, "Why did you make a nameless, faceless, whale the state marine mammal, when we had our own Andre the seal?"

I think back to one cold winter night when I dragged my wife down to Rockport Harbor and we sat on a monument dedicated to Andre the seal in his memory and I asked her to marry me. She said yes and I am very lucky and very happy she did.

I would urge this House to go along and indefinitely postpone this bill so that we don't send the wrong message to the school children in my area. I urge that we do not put into statute legislation which specifies one marine mammal over another and, in my mind, inappropriately. People have made light of this issue, and I, along with other people, suppose it is easy to make light of it but I would ask you to consider what we are doing by doing this today.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Ladies and Gentlemen of the House: A point of order, I guess. Is the bloodworm a mammal and, if it is, would it be appropriate to offer an amendment to this bill to make it the state marine mammal or would I be better advised to offer a new bill than to make a marine worm a state mammal?

The SPEAKER: The Chair has made it a practice not to make rulings on matters not properly before the body.

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

A vote of the House was taken.

Representative Mayo of Thomaston requested a roll call vote.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Mayo of Thomaston that the L.D. 482 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 121

YEA - Allen, Armstrong, Bailey, Baker, Begley, Bickford, Bragg, Brown, Clark, M.; Coles, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnum, Farren, Foss, Gurney, Gwadosky, Hale, Handy, Harper, Hepburn, Hichborn, Hickey, Hillock, Hognlund, Holt, Ingraham, Jalbert, Joseph, Ketover, Kilkelly, LaPointe, Lord, MacBride, Manning, Mayo, McSweeney, Melendy, Mills, Mitchell, Nadeau, G. R.; Nicholson, Nutting, Paradis, J.; Paradis, P.; Parent, Perry, Pouliot, Rand, Rice, Richard, Roide, Rotondi, Ruhlin, Seavey, Sheltra, Small, Smith, Soucy, Stanley, Stevenson, Strout, B.; Strout, D.; Swazey, Tammaro, Tardy, Taylor, Warren, Webster, M.; Wentworth.

NAY - Aliberti, Anderson, Bost, Bott, Boutilier, Callahan, Carroll, Carter, Cashman, Chonko, Clark, H.; Conley, Cote, Crowley, Curran, Davis, Dellert, Dexter, Diamond, Foster, Garland, Gould, R. A.; Greenlaw, Hanley, Higgins, Holloway, Hussey, Jackson, Jacques, Lacroix, Lawrence, Lebowitz, Look, Macomber, Mahany, Marsano, Martin, H.; Matthews, K.; McGowan, McHenry, McPherson, Michaud, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Norton, O'Gara, Paradis, E.; Paul, Pines, Reed, Ridley, Rydell, Salsbury, Scarpino, Sherburne, Simpson, Stevens, A.; Stevens, P.; Telow, Thistle, Tracy, Tupper, Vose, Walker, Weymouth, Whitcomb, Willey, Zirkilton.

ABSENT - Anthony, Kimball, Lisnik, Priest, Racine, Reeves, The Speaker.

Yes, 72; No, 70; Absent, 7; Vacant, 2; Paired, 0; Excused, 0.

72 having voted in the affirmative and 70 in the negative with 7 being absent and 2 vacant, the motion to indefinitely postpone did prevail. Sent up for concurrence.

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

PASSED TO BE ENGROSSED

WITHOUT REFERENCE TO COMMITTEE

RESOLVE, to Authorize Extending the Issuance of Certificates of Good Standing to September 1, 1987 (Emergency) (H.P. 1317) (L.D. 1801) (Presented by Representative ALLEN of Washington) (Cosponsor: Senator BALDACCI of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Committee on Business Legislation was suggested.)

Under suspension of the rules, and without reference to any committee, the bill was read twice, passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Economic Development on Bill "An Act to Create Job Opportunity Zones" (H.P. 1116) (L.D. 1512) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Delineate Areas of Economic Distress and to Create Job Opportunity Zones to Alleviate Distress" (H.P. 1312) (L.D. 1790)

Signed:

Senators: ANDREWS of Cumberland
KANY of Kennebec
Representatives: CROWLEY of Stockton Springs
PRIEST of Brunswick
MELENDY of Rockland
CARROLL of Gray
STEVENS of Bangor
MAHANY of Easton

Minority Report of the same Committee reporting "Ought to Pass" in New Draft (H.P. 1313) (L.D. 1791) on same Bill.

Signed:

Senator: DILLENBACK of Cumberland
Representatives: BAILEY of Farmington
ARMSTRONG of Wilton
STANLEY of Cumberland
HICHBORN of LaGrange

Reports were read.

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House accept the Majority "Ought to Pass" Report.

This is the bill on the job opportunity zones where the committee split with eight on the majority and five on the minority. We split right straight down party lines and that doesn't make any of us feel good. We all support the concept of opportunity zones, we disagree with how we get there.

What is an opportunity zone? An opportunity zone is an area targeted for special assistance by the state to receive grants, tax credits, industry incentive grants, special help by Departments of Transportation, Labor, Human Services to encourage private and local investments.

The bill breaks down in some detail and I will try to address the way we break down.

The majority felt that the plan as issued to us was ill-conceived — a case where you have a wagon but no horse to pull it. I will try to explain that. The differences between the two bills, number one, was in the bill that we were not able to accept was all areas wishing to be designated zones will demonstrate local capacity for economic development. We felt there were many communities within the State of Maine that don't have the capacity for economic development, they don't have the local capacity to put a good package together and we feel that this probably would be against the have-not's. It is the small towns that don't have the sophistication.

In the majority report — our differences — first we planned to evaluate the State of Maine to find out what is out there and where the opportunity zones might be placed. The second stage would be to have applications come in and the third stage would be determined by both the executive branch and the legislature. In other words, the legislature would play a role as we go along with the development of opportunity zones.

We would analyze various regions and localities for economic distress and economic dislocation. For example, we would check the unemployment rate of various communities that seem to be in trouble and would apply per capita income and all those industries that affect the have-not's, dependent care, inadequate housing, plant closing — we feel this information is vital before we go along to make an opportunity zone.

The Minority Bill was to start four zones with really no provision for new staff or experienced knowledgeable of staff and development of opportunity zones. They would just use what they have in the office. It seems that this would be an unwise way, it would be like the magic and mirrors approach.

Remember some states have horrendous failures with ill-conceived plans.

The Development Office will consider, under the Majority Bill, various remedies and approaches to specific economic distress and dislocated zones to promote growth and development and reduce poverty and we underlined "and reduce poverty." This bill, in its study, will help towns develop a strategy, it will see what job tax credits might do for various towns, what job training programs would do under this special program. We would have financing schemes for the disadvantaged towns, tax increment financing, infrastructure, dependent care facilities, technical assistance, education — we would be looking at the entire community to find out

what their needs are and where the job opportunities zones may best be placed.

The Development Office shall report (in our bill) their findings to the legislature, not later than February 1, 1988.

Last Friday at the National Conference of State Legislators in Boston, I listened to some economic leaders, some of the best leaders in the country of economic development, and found that other states like Oregon and Massachusetts have been successful using the same approach as the Majority Bill proposes. We didn't copy this from them but we found out, when we got there, that this is exactly what they did in developing opportunity zones — a study first. You don't select zones until you have, not only studied the stress and dislocation in areas of the state, but helped those hurting the most with the professional and scientific assistance so they can develop a local capacity.

We feel that this plan was not well conceived, (the minority plan), the majority plan we feel requires having the facts and figures before going full-steam ahead. The majority feel that the legislature should legislate the program and the executive branch should execute the program.

Most important of all, we must avoid any pork barrel approach as was mentioned in some newspapers that certain areas of the state would do better than others. Targeting on the merits and not politics is where we are going.

We should go with L.D. 1790 because it is a scientific approach gathering facts and statistics and, finally, we will have the Governor's economic strategy task force report. Armed with the task force report in September and the report due from L.D. 1790, we should be able to organize, administer successfully opportunity zones in the State of Maine. I hope you support this bill.

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

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I urge this body to vote against the Majority Report. As the prime sponsor of L.D. 1512, the original opportunity zone bill, I have several problems with the Majority Report. This bill is another study on economic distress. It forms another advisory committee to study distress and remedies. We don't need more studies, we need action.

In the Majority Report, the number of zones is not specified nor is the life of the zone specified. There doesn't appear to be assistance to zones or businesses in the study areas. There will be studies for possible assistance in such areas as job tax credits, job training programs, financing programs, infrastructure development, dependent care facilities, to name a few.

We really need to have studies in the area of planning and technical assistance, assistance to firms locating for permits and licenses to make that a little bit easier, market assistance, grants for development activities, public facilities, training sites and so forth, which the Minority Report will discuss.

We need to address economic needs in counties like Waldo, Washington, Aroostook or Franklin and others. We need to involve these people who are anxious to become partners with state government. These are people in your home districts that would like to participate in economic recovery. Fourteen of the labor market areas are above seven percent unemployment with some areas as high as twelve percent. This is a serious problem. We can reverse

some of these problems by acting on the Minority Report.

I would urge you to vote against the motion on the floor so that we may bring the Minority Report to the floor.

I ask for a Division.

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

Representative STANLEY: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to vote against the Majority Report. This particular report came out of the blue at 3:00 p.m. on the last day that a bill could get out of a committee. There was no public hearing, there was no input from any of the economic development professionals in this state, there was no input from the Regional Economic Development Council, all of whom spoke at the hearings that we had on the original bill, which is the Minority Report, and they totally supported it. It proposes that we study -- I repeat -- we are going to study economic distress and what we should do about it. We are going to study economic distress. I find that unbelievable in this legislature, who spent days on the road studying economic distress in this state and you had to be blind not to have seen it and know it when you found it. You folks who come from any place but southern Maine, maybe only Cumberland County, should listen to what it is that we are going to study.

The Development Office is being charged with analyzing various regions and localities of the state and determine the regions and localities which are economically distressed, the one's that are the most economically distressed and the one's which face severe economic dislocation, which will be based on the following things, unemployment rate, which I think we have at our fingertips, per capita and household income which is at our fingertips, population declines where they exist, federal assistance in that particular area, general assistance in those areas, plant closings in those areas, lack of available and affordable and decent housing in those areas, lack of dependent care facilities.

I submit to you folks in this legislature we know what those facts are already. That information is available to us now, we do not need another economic development study to determine those factors which are in this Majority Report. Please vote no on the Majority Report so that we can go to the Minority Report which proposes that we do something, not study, but do something about creating job opportunity zones in this state and pump some money and concentrated energy into four areas of this state that are distressed and need our help right now.

The Majority Report only delays much needed activity. Let's show this state that we, as legislators, learned something on our tours and can act when it is obvious that action is called for. There is no time more appropriate than now to get on with economic development. Please vote no on the pending motion so that we can pass the Minority Report.

I would just like to respond, if I might, to a couple of comments that were made by my good friend, Representative Crowley. He believes it is an ill-conceived wagon with no horse, suggesting that areas are not going to have the help that they need, if in fact they need help to put a plan together. I submit to you that we have got a tremendous number of professionals out there including those in the Development Office who are prepared to provide

communities with the help they need to put together a proposal for them to become an opportunity zone.

Let's play a legislative role. Representative Crowley suggested that the legislature needs to play a role, let me tell you what that role is, that role is going to be approving the plans that are submitted by the Development Office. We know in the Community Block Grant Program that that does not work. The reason Community Block Grant works is that we have criteria established and the executive department executes. The Development Office is ordered to report back to us and get its marching orders from the Economic Development Committee. Frankly, you are not going to see anything happen on opportunity zones (if this report is passed) until well into the Fall of 1988 and probably into 1989.

I urge your defeat of the motion that is on the floor and let's get on to the Minority Report which is going to do something about economic development in this state.

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

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: Job opportunity zones is a concept whose time has come. To me, this is not a partisan issue. This is like the wage bill, as far as I am concerned, this is a people issue. Some people would have us think this is a new idea, but it is a concept as old as the hills. It is not the reinvention of the wheel. Despite all the verbiage that surrounds this idea, it is simply an extension of an early practice of the early pioneers who cooperated at barn raisings, at the quilting bees and who participated in the bucket brigade when the neighbors house caught on fire.

A job opportunity zone, no more than four in number, and no more than two in any one year, would be established under the direction of the Director of the State Development Office. He, in response to, and I emphasize that "in response to" a request for help from a town, a group of towns, an area or a region, would respond by giving cooperation and guaranteeing cooperation from the state. The request from the town would be for assistance and promoting an economic effort to improve the job opportunities for a town or an area or a region. The state's response would be in the form of advisory guidance, technical assistance, training needed for workers, help in setting up day care centers, direction for those needing loans from the Financial Authority of Maine, assistance from the Maine Housing Authority, whatever assistance any state agencies had to give. There would be limited financial aid in the form of tax credits or direct grants based on the number of new jobs.

Now, we all know that some sections of our state enjoy a greater degree of prosperity than others and the number of help wanted ads is a daily reminder that in some areas workers are in short supply but you don't read and you don't hear the cries of those who have no jobs, for often they are so far out in the hinder land, that the general public may not know about them and, if we do, it is easy sometimes to ignore them.

On this particular bill, good Democrats and good Republicans got together on this economic committee to recognize and unanimously agree that the job opportunity zone concept is a good idea. It has been tried in many states, has succeeded in many states, and has not succeeded in a few.

The Economic Development Committee agrees unanimously on most of this bill. The reason for divided reports is simply a matter of timing.

Report "A," the Majority Report, has the same description, the same goals, the same objectives, but they want a long, expensive, time-consuming study by the best minds in the state to confirm and to refine what anyone living where jobs are limited or nonexistent have known for a great many years.

The signers of Report "A" would have a study and advisory committee which would include among others the following: representatives of locally elected officials, representatives of regional developmental organizations, the Commissioner of Education and Cultural Services, the Commissioner of Human Services, the Commissioner of Labor, the Commissioner of Transportation, the Commissioner of Environmental Protection or their designees, the Chief Executive Officer of the Financial Authority of Maine, the Executive Director of the Maine State Housing Authority, representatives from the Maine Job Training Council, representatives from this House, representatives from the body at the other end of the corridor, and there may be others. They want them to study a problem about unemployment and report back to this legislature in February of 1988.

What do they want this committee to study? Well, here is a partial list, they want them to study the unemployment rate. We don't have to look at figures in my area to know what the unemployment condition is. They want them to study the per capita income of each individual in the area. They want to know what the household income is all over the state. It would seem to me that it is not the income that we ought to be worried about, it seems to me that our concerns ought to be for the worker's who have no jobs, for the man who has no income at all. They want them to study the population to find out whether or not it is stable or declining or increasing. They want them to find out the percentage of assistance in the form of food stamps, fuel assistance or other federal health where state figures may be incomplete. They want to have a study made of the general assistance being offered by all the towns in the State of Maine. They figure that there may be some that the state may have missed. They want a study of the plant closings, those that have occurred and those that are pending. They would like to have a study made of the housing situation. You have got an excellent director at the State Housing Authority. I am sure she could tell us in five minutes all that this committee could find out by studying it all summer. They want to find out about the ability of dependent care facilities in these areas. The people who have no jobs look after their own youngsters, but I am sure that if jobs were made available, dependent care could be arranged.

But the last one bothers me the most. They want to have them study and arrive at a standard for measuring economic distress, the kinds of distress, the degree of stress, and to recommend corrections for the varying degrees of distress. It would seem to me that any member of this legislature ought to be able to understand the distress that occurs to a man or a woman whose mortgage payments on his house are overdue, whose car has been repossessed, whose home leaks every time it rains, whose kids run around barefoot because they have no shoes, for the man who has no money in his pocket, the table that is bare because there are no groceries on the pantry shelf, and for the man who sees no hope in the future of a job. It seems to me that this expensive, time-consuming study approach is what signers of the Majority Report are recommending to you. But signers of Report "B" say something else. They say, let's do something now.

The Department of Labor has the statistical data on the number of unemployed in every labor district in the State of Maine right now. If every community is made aware that the resources of every state agency is willing to support local programs to improve their economic well being, I will wager that you will be surprised at the number of people who would come forward with ideas and with programs.

Then, four pilot sites, which the State Development Office deems worthy, most likely to succeed, could be chosen, and we could begin to move forward today.

If we wait until next February to get a report, we will wait until the second session is over, and you are going to have two years go by before you are going to get any concrete results and it may be too late for many people. If these pilot models are productive, this legislature can move forward and expand the program. Nero fiddled while Rome burned. I would hope that this legislature would not let it be said of us that we sat here on this warm June afternoon, fiddling complacently, while Maine workers anywhere, sought for a job that they couldn't find.

I hope that when you vote on this issue that you won't look to me, that you won't look into the eye of your neighbor to see how he is going to vote, but I hope you will look into your own heart, that you will recognize that this is a people issue, that you will consider the plight of the young, of the working poor, of the underemployed and the unemployed, and that you will think of the families who look to them for their life support. If you do this and vote your conscience, I will guarantee that when you go home, you will sleep well tonight. The unemployed people who want to work and find no job certainly deserve your support. I hope that when you vote that you will defeat the motion to accept the Majority Report and will vote to accept the Minority Report.

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

Representative CARROLL: Mr. Speaker, Men and Women of the House: My learned colleagues from across the aisle are absolutely right, the time for opportunity zones on economic development in this state, is now. The time has come and the time has come to do it and do it properly and correctly. I think that is what the Majority Report is aiming to do. It is not a study. I do not see it as a study and I do not think the signers of the Majority Report do. I think they see it as a plan, an implementation process to get that best economic development process going for the whole state — the entire state, for all the people, not just the people in four, then only two, of those zones.

If you looked at the Minority Report, they can name four zones, but only two of those will be designated in the first fiscal year. What the Majority Report seeks to do is to seek remedies to look at the problems and solve those problems through solutions and remedies to come back to us, so we as a legislature and the Executive Department, can plan and put the biggest bang for our dollar in the biggest depressed areas in this state.

There is depression out there and there is economic distress out there in this state. As the good gentleman from Cumberland stated, as we went to economic tours around this state, you could see that. The problem we have is what caused it and what is the best way to solve the problems that exist out there. I think we can best do that if we put all that information that we are asking for together, compile that information, and look at how

we can then address the economic problems of each and every area of this state, each region simultaneously, and put that money into areas where we need to put it to get the people rolling and get into some kind of prosperity. I think it is very important to take the best minds of this state, the best minds from the Executive Branch, the best minds from the Legislative Branch, and look at this problem, produce the remedies, and as they did in the olden days for the barn raisings and the bucket brigades, plan first where that barn is going to be, don't just build it someplace where it is not going to be a good spot. And the bucket brigade people did what they had to do because they knew what they had to do and they responded to an emergency situation and they did so together. They did so with a plan, they did so with some kind of point, and that is what we are trying to do.

We are trying to find a remedy to a lot of problems and this state has a lot of problems. Each region has its own unique problems. If we can resolve those problems with a package of money and we can get some economic development going in more than two areas, in more than four areas of this state starting in February, I think that is what this state should do. I think it enables us to have good planning for the future. I think it is sound public policy and it is a positive direction for this legislature to go for this state to go for all of the people, statewide. I urge you to support the Majority Report.

The SPEAKER: The pending question before the House is the motion of the Representative from Stockton Springs, Representative Crowley, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Armstrong of Wilton requested a roll call vote.

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

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

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

Representative ARMSTRONG: Mr. Speaker, Men and Women of the House: Much of what I was going to say regarding this issue has already been said by my distinguished colleagues on this issue. However, I think there are a couple of points that I think should be made. The original bill, as you are well aware, is to create four demonstration job opportunity zones to be situated throughout the state. Areas that have experienced various degrees of economic recession have seen prosperity pass them by are candidates for these job opportunity zones. Looking at the latest civilian labor force unemployment statistics, we are talking about towns like Belfast, Calais, Eastport, Caribou, Presque Isle, Fort Kent, Allagash, Greenville, Houlton, the Madawaska - Van Buren area, the Patten - Island Falls area, Rumford, and Sanford. These are the types of places that might well benefit from job opportunity zones if we vote on the Minority Report and vote "Ought Not to Pass" on the Majority Report.

There are a couple of differences that you should be aware of that have not been stressed. In the Majority Report before you now, there is a fiscal

note of some \$600,000. \$100,000 of that is going to be used by the State Development Office, the State Planning Office, to conduct the review and analysis required in this act. \$100,000 for a study of economically distressed areas. The \$500,000 -- the amount in the second year of the biennium, the Majority Report is unclear as to how that money would be spent. Is that money to be spent for continued further studies? Nothing is said in the bill of how that money is going to benefit anybody outside of consulting firms that perform studies for a fee.

The Minority Report -- one reason for my signing onto that was that we are talking around \$450,000, \$150,000 less, and this money is used for the direct creation of jobs. It isn't spent unless jobs are created. This is from a combination of a tax and job benefits to industries who either expand, or move into these job opportunity zones and create jobs, the quality jobs described in the bill. So, if you are talking about bangs for your bucks, you kind of have to go with the Minority Report here. We are buying jobs with this money. The Majority Report -- the thing I objected to from June 1st, the day this proposal was brought in, is talking anywhere from \$100,000 to \$600,000 to study and review the issue. I am not saying that studies are not necessary, they are always a help. I think we have arrived in a point in time where it is time to address some of the problems of some of the areas of the state where prosperity has either passed them by or not yet caught up with them.

So I do ask for a roll call. I urge a no vote on the Majority Report so that we can consider the Minority Report.

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

Representative STANLEY: Mr. Speaker, My Colleagues in the 113th: Before you vote, I would just remind you that there was no hearing held on this bill that is before you now. No public input was given, none of the professionals spoke to this issue as they did on the Minority Report. There wasn't one person who did not support the Minority Report at our hearings.

I would ask you to think about the folks back home, how you are going to go back home and look those folks in the eye that we saw on the tour and tell them that you are postponing economic development activities and these specific job opportunities zones for anywhere up to eighteen months. I urge your no vote on the Majority Report.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: As I read the Majority Report, it seems to me that rather than a study, it is a more careful implementing process than is the Minority Report. A particular concern to me is the area of taxation and tax credits. The Majority Report calls for the State Development Office to develop what they consider to be appropriate means by which to develop job opportunity zones and if tax credits of some nature are to be one of their recommendations, than it is the intention of the Economic Development Committee to extrapolate that information out of the report and send it over to the Taxation Committee which was the agreement we had with the Chairs of the Economic Development Committee in the first place.

The Minority Report, on the other hand, would enact several very comprehensive tax changes in Maine tax policy and I think it is unprecedented in my time in the legislature to enact such far-reaching and sweeping changes in Maine State tax policy without

the Taxation Committee even having a chance to look at it.

I guess that I would pose a question through the Chair, Mr. Speaker, to the signers of the Minority Report as to how they envision giving the Taxation Committee an opportunity to review their recommendations and to pass out a report on it?

The SPEAKER: The Representative from Old Town, Representative Cashman has posed a question through the Chair to any member of the Minority Report who may respond if they so desire.

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I guess no one responded to the good gentleman from Old Town, but I will proceed along a different line if I may.

This bill was heard before a joint hearing of both the Taxation and Economic Development Committees, and at the time of the hearing and after the hearing and work session, I stated several concerns that I had about the legislation. Those concerns I do not believe have been addressed. I would like to bring them to the attention of the House.

Presently in Maine, as I have spoken about before in this House, we have a provision in law that allows for tax increment financing. It is a method by which businesses are aided in locating within Maine and they are helped to provide jobs. Recent uses of that provision were done in Brewer where Lemforder Corporation came in and produced over 200 jobs with the use of tax increment financing. Those provisions exist and they exist fairly and equitably all across the State of Maine. They are not singled out in any one area. There are caps on those provisions though that do not allow them to be concentrated in one area but have to be distributed throughout the State of Maine.

My biggest objection to this legislation is embodied on Page 8 of the New Draft that you have before you where it talks about the amount of investment that is eligible for the credit under the provisions of the tax portion of this bill. According to the language in this legislation, that cap will be distributed amongst the opportunity zones according to procedures established by the State Development Office. I know of no other tax that is parceled out by a bureaucrat or a tax credit that is parceled out by a bureaucrat within state government. Standards are set up for tax credits. Companies conform to those standards and then they receive the credit or individuals receive the credit. I know of no such tax credit whereby a bureaucrat decides who will get the credit and who doesn't. I think that is very dangerous.

I have heard a lot tonight about economic development and the need for economic development and I concur with those sentiments. I have heard about the poor people without a job and whose roofs are leaking, and I submit to this legislature that the amount of money that is called for in this legislation won't even be a drop in the bucket for our needs for economic development in this State of Maine.

I would remind this legislature that I sat here in the last session and watched as a \$5 million small business bond issue went down in defeat -- a bond issue that would have, indeed, provided substantial economic development to this state, but it was defeated. I cannot reconcile that act to try and pass this legislation. I believe the Majority Report puts us in the right direction. It allows us the framework to establish this but to have it done so in

an appropriate manner and a manner that is fair -- fair to all of the citizens of the State of Maine and does not allow one group to be singled out when all groups need help in this area. I would urge your support of the Majority Report.

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

Representative ARMSTRONG: Mr. Speaker, Men and Women of the House: I think the Minority bill is very specific of how this money is going to be spent, the \$450,000, both as a tax credit to businesses that provide new quality jobs within an opportunity zone. This is based on the formula that is given in the bill. I hesitated to stand up and read it and I won't do so because all of you may read it in front of you. A job credit, which companies can apply for -- it is up to twelve hundred and fifty dollars per job and that is over a two year period.

I am not a tax expert but it seems to me that these provisions are pretty well spelled out in the bill and money will not be paid until jobs are created. This is in contrast to the Majority Report where money will be paid and, as far as I know, no jobs will be created.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: Representative Armstrong points out that the provisions of the bill are well stated. I would agree with him that they are, but indeed, most bills that come before this body, the provisions are well stated. They are still referred to committees. The appropriate committee for.....

The SPEAKER: The Chair would inquire for what purpose the Representative from Cumberland rises?

Representative STANLEY: I rise on a point of order, Mr. Speaker. I believe that Representative Cashman and Representative Mayo are both addressing the Minority Report which is not currently up for discussion.

The SPEAKER: The Chair would advise the Representative that the pending question is on adoption of either the Majority or the Minority Report, and therefore, it is in order.

Representative CASHMAN: Thank you Mr. Speaker, I will continue. Representative Armstrong points out that the provisions are well stated, and as I said, I think most provisions in most bills that come before this body are well stated. They are still referred to the appropriate committee.

Representative Armstrong goes on to point out that he is not a tax expert, I suppose you could question whether any of the thirteen of us who sit on the Taxation Committee are tax experts, but we are charged with overseeing the legislative responsibility in the state's tax policy. Even as I asked the question, which I asked and received no answer for, my learned colleague, Representative Mayo, stands up and points out a couple of flaws in the Report that is before us. I would hope that this House would accept the Majority Report because I would hate to see us get into a situation where we are going to enact tax policy without the review of the Taxation Committee, just as I would hate to see us enacting broad, sweeping changes for the Judiciary without the Judiciary Committee looking at it. I think it is terrible precedent for this legislature to set and I am frankly appalled that the Minority Report would put it in front of us.

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

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I sat here this afternoon and listened to the debate on whether we are going to

provide jobs for Maine people or whether we are not going to provide jobs for Maine people. That is what it boils down to. I hear and see the smoke coming out from the members who are opposed to the Minority Report. I say smoke and that is exactly what it is.

This is not unprecedented, this was done back when we attracted Pratt & Whitney Aircraft of Berwick. We provided the same exemptions, the same credits. There is nothing new about this. This is not a different tax policy today than what we tried when we attracted that company in North Berwick. We supplied credits on investment, we supplied credits on jobs. That is exactly what this bill does.

There are areas in this state that need economic development and they need it terribly bad. They need it now, they don't need it eighteen months from today, or twelve months from today. I think that the Minority Report and the creation of job opportunity zones in this state is a tremendous step forward. It puts us on the cutting edge. Other states, other communities, have adopted this concept -- it has worked. If it puts one person to work, if it puts ten people to work, it has accomplished what it was intended to do.

To ask for pilot projects, I do not think is unrealistic. I know that economic development has been the theme of the past legislature, this legislature, and it seems to me that we have an opportunity before us this afternoon to pass a Report, the Minority Report, which will provide a step. It is not a great step, I would like to see it go further. But what it will do if it is allowed to pass this afternoon and we are able to enact this legislation and put it to work, is that it will create areas in the state, which don't have the same opportunities that other areas have in the state, particularly in the southern part of the state.

These areas, as I understand it, if they are appointed and successful, will become economic regions. Those economic regions, I would envision someday, to be somewhat similar to Lewiston-Auburn, somewhat similar to Bangor, somewhat similar to the greater Portland area, which I think is extremely important for communities north of Bangor, east of Bangor, and west of Augusta.

I just feel that acceptance of the Minority Report is a step in the right direction and I would hope that you would vote against the Majority Report and accept the Minority Report. Let's do something for Maine working people, let's put them back to work.

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I think my point on the section of the bill that I took great exception to may have been misunderstood. My point on that section where it left to the State Development Office the decision on who got the credit was not that the standards for that credit were not set up, but that the State Development Office would decide what areas of the state would qualify and what areas would not. I submit to you that an opportunity zone could run along a county border, it could run along an economic region border, and it could be Company A on one side of that line and Company B on the other side of that line meeting the same standards, creating the same number of jobs and one company would get the credit and the other company would not. I do not think that is fair and I do not think it is appropriate to do. This is not like Pratt & Whitney. The Pratt & Whitney legislation was set up so that any company in the state that met the same standards that Pratt & Whitney met, regardless of where they were within the State of Maine, would qualify for the tax credit.

That was appropriate tax policy when it was passed in that form. If we pass it now in this form, we are setting in my mind, not only a dangerous precedent, but also setting up for the potential of great problems within our Executive Branch of government upon the politicization of this whole discussion upon the decisions of where these enterprise zones will be and will not be. This is a difficult question and a very complex question.

I would urge this House to adopt the pending motion, the Majority Report so we can go at this in a more learned fashion. I don't suggest that we waste time but I do suggest that, even if you do not accept the Majority Report and vote against this motion and accept the other Report, that I do not believe that any more jobs are going to be created because of it. I feel that both reports will put us in the position of doing that and doing it appropriately. Let's not go down a road that we don't know where we are going until we know clearly what we are doing and if we can effect this legislation appropriately.

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

Representative MICHAUD: Mr. Speaker, Men and Women of the House: It is not very often that I rise to speak on an issue that does not come before the Energy and Natural Resources Committee. However, I rise today and hope that you will vote against the pending motion so that you can accept the Minority Report. Let me say that I do not think that economic development should be a partisan issue. Promoting jobs for the citizens of this state should be done by the legislature in a bipartisan manner.

We have two proposals before us today, the Minority Report which calls for a pilot project so that the legislature will be able to get a feel on opportunity zones to see if they work or if they don't work. The Majority Report, as I read it, gives more study. It calls for a study of distress, calls for analysis and remedies for distress, but no action. There are communities out there who look for the state for tools to help them to provide jobs in their community.

I am a cosponsor of this bill. I worked hard in a bipartisan manner to try to get a first step of this program and that is in the Minority Report. Our efforts to create jobs for Maine citizens must be a bipartisan effort. You have two proposals before you today. One, as I envision it, one to do a study, and the other is to start the process forward. There are probably problems with the Minority Report, but a lot of legislation that we pass here, the following year we will come back to fine tune that legislation.

So, I hope that this body will vote against the pending motion and vote to accept the Minority Report.

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

ROLL CALL NO. 122

YEA - Aliberti, Allen, Anthony, Baker, Bost, Boutilier, Carroll, Cashman, Clark, M.; Coles, Conley, Crowley, Diamond, Dore, Erwin, P.; Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Hickey, Hoglund, Holt, Jalbert, Ketover, Kilkelly, Lacroix, LaPointe, Macomber, Mahany, Manning, Mayo, McHenry, McSweeney, Melendy, Mills, Mitchell, Nadeau, G. R.; O'Gara, Paradis, P.; Perry, Pouliot, Rand, Richard, Rolde, Rotondi, Rydell, Simpson, Soucy, Stevens, P.; Swazey, Tamaro, Tardy, Thistle, Tracy, Walker, Warren.

NAY - Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Bragg, Brown, Callahan, Clark, H.; Cote, Curran, Davis, Dellert, Dexter, Duffy, Dutremble, L.; Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Harper, Hepburn, Hichborn, Higgins, Hillock, Holloway, Hussey, Ingraham, Jackson, Jacques, Joseph, Lawrence, Lebowitz, Look, Lord, MacBride, Marsano, Martin, H.; Matthews, K.; McPherson, Michaud, Moholland, Murphy, E.; Murphy, T.; Nicholson, Norton, Nutting, Paradis, E.; Paradis, J.; Parent, Paul, Pines, Reed, Rice, Ridley, Ruhlin, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Small, Smith, Stanley, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Taylor, Telow, Tupper, Vose, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

ABSENT - Carter, Chonko, Kimball, Lisnik, McGowan, Nadeau, G. G.; Priest, Racine, Reeves, The Speaker.

Yes, 57; No, 82; Absent, 10; Vacant, 2; Paired, 0; Excused, 0.

57 having voted in the affirmative and 82 in the negative with 10 being absent and 2 vacant, the motion to accept the Majority "Ought to Pass" Report did not prevail.

Subsequently, the House voted to accept the Minority "Ought to Pass" Report, the New Draft read once.

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

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

REPORTS OF COMMITTEES

Ought to Pass Pursuant to Joint Order (H.P. 23)

Representative CARROLL from the Committee on State and Local Government on Bill "An Act to Revise the Salaries of Certain County Officers" (Emergency) (H.P. 1318) (L.D. 1802) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 23)

Report was read and accepted, the bill read once.

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

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act Dealing with the Authority of Harbor Masters" (H.P. 1315) (L.D. 1794)

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

Representative Anthony of South Portland offered House Amendment "A" (H-288) and moved its adoption.

House Amendment "A" (H-288) was read by the Clerk and adopted.

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

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

SENATE PAPERS

The following Joint Order: (S.P. 611)

ORDERED, the House concurring, that Bill, "AN ACT to Provide Health Care Benefits to Uninsured Individuals," H.P. 1292, L.D. 1770, be recalled from Engrossing to the Senate.

Came from the Senate, read and passed.

Was read and passed in concurrence.

The following Joint Order: (S.P. 612)

ORDERED, the House concurring, that Bill, "AN ACT to Ensure Safe Abatement of Asbestos Hazards," H.P. 1286, L.D. 1762, be recalled from Engrossing to the Senate.

Came from the Senate, read and passed.

Was read and passed in concurrence.

Ought to Pass in New Draft

Report of the Committee on State and Local Government on Bill "An Act to Allow Increased Participation of State Employees in the Electoral Process" (S.P. 348) (L.D. 1040) reporting "Ought to Pass" in New Draft (S.P. 606) (L.D. 1796)

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

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

Under suspension of the rules, the New Draft was read a second time, passed to be engrossed in concurrence.

Ought to Pass in New Draft

Report of the Committee on Transportation on Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1988, and June 30, 1989" (Emergency) (S.P. 201) (L.D. 558) reporting "Ought to Pass" in New Draft (Emergency) (S.P. 605) (L.D. 1793)

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

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

Under suspension of the rules, the New Draft was read a second time, passed to be engrossed in concurrence.

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

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" on Bill "An Act to Ensure Confidential and Reliable Substance Abuse Testing of Employees and Applicants" (H.P. 1310) (L.D. 1788)

Signed:

Senators:

DUTREMBLE of York
ANDREWS of Cumberland
McHENRY of Madawaska
RAND of Portland
HALE of Sanford
RUHLIN of Brewer
JOSEPH of Waterville
TAMMARO of Baileyville

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

Signed:

Senator:

Representatives:

COLLINS of Aroostook
ZIRNKILTON of Mount Desert
HEPBURN of Skowhegan
WILLEY of Hampden

BEGLEY of Waldoboro

Reports were read.

Representative McHenry of Madawaska moved the House accept the Majority "Ought to Pass" Report.

Representative Zirkilton of Mount Desert requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of Representative 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. 123

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

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

ABSENT - Chonko, Kimball, Lisnik, Priest, Racine, Reeves.

Yes, 79; No, 64; Absent, 6; Vacant, 2; Paired, 0; Excused, 0.

79 having voted in the affirmative and 64 in the negative with 6 being absent and 2 vacant, the Majority "Ought to Pass" Report was accepted, the Bill read once.

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

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: RESOLVE, Pertaining to the Implementation of a Plan for Greater Coordination of Human Resource Development Programs (H.P. 1277) (L.D. 1748) which was tabled earlier in the day and later today assigned pending passage to be enacted.

This being an emergency measure, a two-thirds vote of all the members elected to the House being

necessary, a total was taken. 104 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: An Act to Implement the Recommendations of the Joint Select Committee for Learning Disabled Children (H.P. 350) (L.D. 449) (C. "A" H-253) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

The Chair laid before the House the following matter: An Act Relating to Adult Education (H.P. 893) (L.D. 1194) (H. "A" H-243; S. "A" S-137) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

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

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Enable Local School Administrative Units to Support Certain Child Care Programs" (H.P. 906) (L.D. 1218) reporting "Leave to Withdraw"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide a Special Needs Payment to Recipients of Aid to Families with Dependent Children for Excessive Housing Costs" (H.P. 519) (L.D. 692) reporting "Leave to Withdraw"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Promote the Development and Improvement of Child Care Resources in Maine" (H.P. 1083) (L.D. 1474) reporting "Leave to Withdraw"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Fund Increased Insurance Costs, Children's Programs, Rural Outreach Programs and Minimal Standard Requirements in the 9 Member Agencies of the Maine Coalition for Family Crisis Services" (H.P. 234) (L.D. 302) reporting "Leave to Withdraw"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Ensure Job Training Assistance to All Aid to Families with Dependent Children" (Emergency) (H.P. 486) (L.D. 653) reporting "Leave to Withdraw"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Create a Crisis Intervention Program for the Mentally Ill to Serve Penobscot, Hancock, Piscataquis and Washington Counties" (H.P. 1147) (L.D. 1562) reporting "Leave to Withdraw"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Fund Energy Outreach Workers in Presque Isle, Bangor, Augusta, Lewiston and Portland" (H.P. 200) (L.D. 252) reporting "Leave to Withdraw"

Representative CARTER from the Committee on Appropriations and Financial Affairs on RESOLVE, Appropriating Funds for the Chester Dental Clinic (H.P. 332) (L.D. 431) 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 item appeared on the Consent Calendar for the First Day:

(S.P. 458) (L.D. 1402) Bill "An Act to Prevent Abuse of Handicapped Parking Spaces" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-148)

On motion of Representative Anthony of South Portland, was removed from the Consent Calendar First Day.

Report was read and accepted and the Bill read once.

Committee Amendment "A" (S-148) was read by the Clerk.

Representative Anthony of South Portland offered House Amendment "A" (H-290) to Committee Amendment "A" (S-148) and moved its adoption.

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

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

The Bill was read a second time, passed to be engrossed as amended, and sent up for concurrence.

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

REPORTS OF COMMITTEES

Ought to Pass in New Draft/New Title

Representative RIDLEY from the Committee on Energy and Natural Resources on Bill "An Act to Provide for Municipal Control of Noise Generated by Development" (H.P. 1030) (L.D. 1388) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Provide for Noise Generated by Developments" (Emergency) (H.P. 1319) (L.D. 1803)

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

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

Divided Report

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Reduce the Incidence of Motor Vehicle Accidents among Maine's Young Drivers" (H.P. 236) (L.D. 304)

Signed:

- Senators: CAHILL of Sagadahoc
THERIAULT of Aroostook
- Representatives: SOUCY of Kittery
MACOMBER of South Portland
McPHERSON of Eliot
STROUT of Corinth
CALLAHAN of Mechanic Falls
SALSBURY of Bar Harbor
MOHOLLAND of Princeton
POULIOT of Lewiston

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-287) on same Bill.

Signed:

- Senator: DOW of Kennebec
- Representatives: MILLS of Bethel
REEVES of Pittston

Reports were read.

On motion of Representative Moholland of Princeton, the House accepted the Majority "Ought Not to Pass" Report. Sent up for concurrence.

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

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Human Resources reporting "Ought Not to Pass" on Bill "An Act to Revise the Review Process of the Maine Health Care Finance Commission" (H.P. 435) (L.D. 588)

Signed:

- Senators: GAUVREAU of Androscoggin
GILL of Cumberland
KERRY of York
- Representatives: MANNING of Portland
DELLERT of Gardiner
PINES of Limestone
LAPOINTE of Auburn
TAYLOR of Camden
BOUTILIER of Lewiston

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Require the Maine Health Care Finance Commission to Recognize the Cost of Patient Volume Currently Served" (H.P. 1314) (L.D. 1792) on same Bill.

Signed:

- Representatives: ROLDE of York
CLARK of Brunswick
SIMPSON of Casco
FARNUM of South Berwick

Reports were read.

Representative Manning of Portland moved that the House accept the Majority "Ought Not to Pass" Report.

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

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you not to accept the Majority "Ought Not to Pass" Report. I would ask for a roll call on that motion.

I am sorry at this very late hour of the day to get into a complicated issue which deals with the Maine Health Care Finance Commission. To me, the Minority Report is an attempt to deal with one of the problems of the Maine Health Care Finance Commission. It refers to a recent rule change that the Maine Health Care Finance Commission made.

Let me explain because it is complicated. The way the Health Care Finance Commission is set up, it gives every hospital in the state a certain amount of money on which to operate. There is a ceiling and the hospital cannot go beyond that ceiling in any of its charges and take in any more revenue than it is permitted or it will face a punitive fine.

The amount that it gets is based on a base year and that base year was a couple of years ago. What happens if a hospital now has an increase in the patients that it serves, an increase that it hasn't foreseen, and an increase for which it has to have additional expenditures? Under the original commission rule, the hospital that was in that situation would receive the money as a reimbursement after two years. That is something like our financing of some of the schools. It was a problem

for some of the hospitals but it was one that they could live with.

There was a new ruling that came out last month and that new ruling said, from now on, there would be no two year wait and the hospitals would receive the actual amounts of increases in their third year. The ruling also said that hospitals who had decreases in those first two years would not have to pay back.

But what happens to a hospital who had increases in patients and expenses in those first two years? They are being told now that they would not receive the money that they had expected to receive, that they would have to wait another two years and, even after that, they could only get it back if they had a decrease or this would go on for the next three years. In effect, my hospital in York, for example, which had increases in patients and expenses in its first two years would probably not get that money back for another five years. They would essentially have to absorb expenses they incurred during those two years. My hospital, because of the ruling change, will lose \$600,000 this coming year, money which they have expended and expected to get back. Now, that would be all right if they could make it up somehow, but they can't do that, they can't raise their rates.

I have maintained that the Maine Health Care Finance Commission is an example unique in Maine Government where one industry, the hospital industry, essentially a non-profit industry, is being regulated for the benefit of another industry, the insurance industry, which is essentially a private industry.

The fiscal impact that the insurance industry has estimated this bill will have shows that fact perfectly. They say it will cost them \$11 million and that is only for four hospitals in the state. So those hospitals, which expended that money in good faith, are now going to have to eat it for the benefit of the insurance industry. Don't forget there is nothing in the Maine Health Care Finance Commission law that forces the insurance companies to pass on any so-called savings to consumers -- don't worry, they don't.

This new ruling of the commission changes the game completely for those few hospitals that had significant increases in patients in the first two years. Those hospitals are now being told, tough luck, you can whistle for your money, you might get it five years from now.

I know how I would feel about someone who owed me money and treated me in that cavalier fashion. Maybe now you can see why I have such negative feelings about the commission. This is a prime example of how unfair and arbitrary they can be and how apparently it is impossible for the present system to treat all hospitals in the state equitably. That is why I have brought this bureaucratic ruling before us, since we are the last court of judgment. I hope you will support my attempt to see that all hospitals are treated fairly.

I would also add that, if the bill does survive its first reading, it may need an amendment. I have been told this by the Executive Director of the Commission that the drafting doesn't reflect my intent which is also to protect small hospitals that have had decreases. I am not sure whether he is correct or whether he is just looking at the Statement of Fact. I certainly want to protect those small hospitals. Mine is a small hospital too, one that is intimately tied to our community and is, in fact, the largest and practically the only industry in our town. The bill would need a fiscal note. I hope that you would follow me and, if the bill does get to second reading, we will make those changes.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: This ruling started approximately six or seven months ago when the Maine Medical Center in Portland was experiencing a tremendous amount of increase in their volume. The Maine Medical Center approached the Maine Health Care Finance Commission to try to resolve this problem.

In looking at the problem, the Health Care Finance Executive Director and the staff proposed to the commission an increase and a decrease in the third payment year that would affect all hospitals. When all hospitals looked at that, they realized that some hospitals would be substantially hurt because all hospitals have not seen an increase. As a matter of fact ladies and gentlemen, a number of hospitals in the last couple of years have seen a major decrease. When the hospitals said, look, this will drastically change us, the Commission went back and took a look at it and they came up with another way of handling it.

First of all, for all the hospitals who have an increase in volume in their third year, the third year, not retrospectively, remember that, this is prospectively, the hospitals would have a volume increase whether or not their volume increase was on June 1st and their hospital year started on October 1st, it would go all the way back to October 1st. So, in the case of the Maine Medical Center, the Maine Medical Center starts their year on October 1st, their volume adjustment would go back all the way to October 1st.

For those hospitals who saw a decrease in the first couple of years, nothing would happen. However, there were a lot of hospitals who saw a decrease in their first couple of years but got paid much higher revenues. I think the concern of the commission and the concern of the hospitals was that they have already spent that money so they have to turn around and give back that money to the consumers of the State of Maine. Remember, when we talk about insurance companies, we are really talking about insurance companies who serve consumers who pay the Blue Cross and Blue Shield or Hanover or whatever:

Representative Rolde has indicated that some of these hospitals wouldn't get paid any monies for four or five years. What the commission decided to do in that case is, any hospital who had an increase in volume the first couple of years and had a decrease in volume subsequently, they could use the first two years of the increased volume as a credit if the volume went down in the third and their fourth and their fifth year. They could use those first two years of increase as a credit to their third, fourth and their fifth years and subsequently how long it goes out and spends out. If the volume increased in the first, second, third, fourth and fifth year, starting in the seventh year, the hospitals would receive money back from the first two years. So, Representative Rolde is right in a way saying that his hospital won't receive the money for the first two years. Now, mind you, we are talking the first two years. They would not start to receive their money back until the seventh, eighth, ninth year simply because the commission thought they ought to look at this as a prospective way of dealing with it, not retrospectively, in the fact that the hospital and payers would all be much better off if they looked at it this way because if we ended up reducing the payment for these hospitals, we would be reducing it right now and that would affect some of these hospitals.

By the way, this amendment that Representative Rolde is presenting will affect a few hospitals, one of them is the hospital in my hometown, Maine Medical Center. Maine Medical Center, although they didn't spend up to what the commission allowed them to spend, they made approximately \$1 million the first year. I don't think they are adversely affected. The other hospital is the Eastern Maine Medical Center of Bangor. The second year Eastern Maine Medical Center made approximately \$1.6 million. Half of the estimated money that will be going back to these hospitals will be going back to the Maine Medical Center and the Eastern Maine Medical Center, which will be approximately \$5 million. These two hospitals, as I indicated, in the second year made — one of them made \$1 million and the other \$1.6 million.

The committee looked at this and realized that, just on the state's side, this would cost the state approximately \$400,000 to \$600,000 out of general funds because the state pays their medicaid program and the medicaid program would have to come up with a little less than \$2 million and with a 68/32 federal share, our state share of the medicaid program would run anywhere from \$400,000 to \$600,000. This would be monies paid back to hospitals that, in some cases, had experienced a fairly substantial revenue increase in the first and second year.

This volume adjustment was discussed back when the rules were made in May of 1984. The Hospital Advisory Committee - Northern Maine Hospital Association advocated reconciliation or the differences between the projected volume that was happening at that time simply because they knew that many hospitals had a decrease in volume but would get paid more for their services. So they did not oppose the rule in 1984, simply because they new it would adversely affect hospitals.

One of the key things in the volume adjustment that the commission made, and it is a key to many, many people in the State of Maine, is an adjustment that in the third, fourth and fifth year they would not adversely affect one way in how it handled small hospitals. When we talk about small hospitals in this state, the Maine Health Care Commission looked at it, if it is 55 beds or under, it is considered a small hospital. Now, I can't tell you who has got a small hospital and who doesn't but I know, for instance, the hospital in Fort Kent would be a small hospital, it is less than 55 beds. I think the hospital in Caribou is just slightly over 55 beds, but the key thing, I think, and this is going along with what the committee handled in 1983 when we looked at the Health Care Commission, is try to protect that small hospital. We have debated many different things about economic development and I contend that, if we do away with small hospitals in this state, I think economic development is going to go right down the tubes with it because I think the people in the State of Maine are looking towards having good health care. That small hospital, even though it might not have all the fancy things that the bigger hospitals have, it is key to those people. I think that is the key thing that people should remember, that this volume adjustment that the commission came up with does not affect in the third, fourth and fifth year. What that does is that it gives hospitals a good leeway for looking at just exactly what they ought to be doing, whether or not they ought to be closing down wings, whether or not they ought to be handling other different things. It gives them two good solid payment years to take a look at how they should adjust to the decrease in volume that they are experiencing.

There are many hospitals out there who are experiencing decrease in volume. I think it is real important that we remember that. There are some hospitals that have seen an increase in volume. I think this volume adjustment that the commission came up with will help them, will help even Representative Rolde's hospital because they will be dealing with his hospital in the third year. I am not sure when his hospital starts their year but let's say it is the same thing as Maine Medical Center which is October 1st, they would be able to go back all the way to October 1st and increase their revenues because they have had an increase in volume adjustment. We are talking the third year, not the first two years. The first two years have gone by the boards and what we are saying is, we don't want to deal with retrospective payments, we want to deal with prospective payments. If this bill goes through the way it is written right now, hospitals who have found that they had a decrease in volume the first couple of years, will have to pay back and it will also cost, perhaps the consumers of the State of Maine, an extra \$10 million.

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

Representative DUFFY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to Representative Rolde.

Bangor has two hospitals, actually it has three hospitals, two of which are small, St. Joseph's being one of them. I know they have done an extensive amount of work to update their emergency room. I know they have done outpatient updating. I know they have done intensive care updating. I also know that it was a year ago when Dover-Foxcroft, St. Joseph's and a couple of other hospitals had to get together to get a body scanner.

My question is, if they have put this much money in and don't show a profit and they are now starting to increase their volume because of what they have done, will this hurt this hospital in the next one or two or three years? Can they afford that much time because maybe they can't recover that fast if they don't have some kind of help?

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

The Chair recognizes that Representative.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: No, my bill would not affect them in any way, shape or manner. All I am trying to do is say, you did the work the last two years and you expected to be paid for that, now what they are saying is, we are not going to pay you for maybe another five years or maybe seven years. All I am saying is those that already had their volume increases should get paid back money that they expended. I am not trying to deal with any other problems, the small hospitals that experienced decreases, that is fine. I am not trying to deal with that in any way, it is just that those hospitals that already had their increases, that paid their money out to deal with those increases, should get paid for that as they had expected to before this rule was put in. That is the only thing that I am trying to do.

Again I would say, I have a very small hospital with under 55 beds, which is being pushed to the wall by this kind of a rule. How long can we go on absorbing a \$600,000 loss without any way to get that back?

I would also point out to you, under the rules of the commission, if somebody wanted to give us that

money, if it were for any specific purpose, the commission would take it away from us. So we basically have no way to make up that loss except to dig out of our reserves.

I would also ask you to look at the increase in the reserves of the insurance health companies since the finance commission came in. Blue Cross - Blue Shield has doubled.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to support Representative Rolde's motion because I, too, use the York hospital and some of my constituents and they are going to be forcing us right out of business for the simple reason we cannot afford to keep losing money and not get reimbursed for things that we were told that we were going to get reimbursed for. I think it is unfair to a small hospital and we are in a growing community and these people have a right to have a local hospital that they can use.

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

Representative LAPOINTE: Mr. Speaker, Ladies and Gentlemen of the House: I just want to add that there is a fiscal note on this of \$1.5 million, I believe.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry to get up again. The hospitals were never told they were going to get this money back. They knew in 1984, when the rule was set by the commission, what the rules were. They were never told they were going to get the money back. I hope that people realize that because the adjustment that they are getting now is only because one of the hospitals, Maine Medical Center as I indicated, went to the commission and said, I think we ought to try to take a look at this. The commission took a look at it and came up with their commission's ruling, only after Maine Medical Center approached them. Up until the Maine Medical Center approached them, there was never anything said that the hospitals would get paid for a volume increase the first two years.

As I reminded you earlier, this volume adjustment is only going to go into effect in the third year. I have a hospital in Portland who hasn't even started their third year. If their volume increases their third year, they will start right off the bat getting it. We are talking previous two years to hospitals who were never told that they were going to get increases for those two years.

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

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

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

Representative DUFFY: Mr. Speaker, I would like to pose a question through the Chair to the Chairman of the Committee.

In 1984, when the commission made the ruling and told them how this was going to be, did the small hospitals have any choice but to go along?

The SPEAKER: Representative Duffy of Bangor has posed a question through the Chair to Representative Manning of Portland, who may respond if he so desires.

The Chair recognizes that Representative.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: When the rule was made, Representative Duffy, it was acknowledged by the hospital advisory committee which is made up of a member of both a small hospital, a medium-sized hospital and a large hospital. Nothing was said about that rule back at that time nor did the Maine Hospital Association say anything about that rule. Had this particular piece of language been in effect back in those days, some hospitals would have been adversely affected, even small hospitals.

I might add, I don't think that St. Joseph's in Bangor is a small hospital. I think it would probably be at least a medium-sized hospital. But had this rule been in effect back then, they would have lost money back then — immediately, they would have lost money back then.

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

Representative SEAVEY: Mr. Speaker, Ladies and Gentlemen of the House: I simply want to say that I urge you vote no on the pending motion so that you can support Representative Rolde and the Minority Report.

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

ROLL CALL NO. 124

YEA - Allen, Anderson, Armstrong, Bailey, Baker, Begley, Bickford, Bost, Bott, Boutilier, Bragg, Callahan, Carroll, Carter, Cashman, Conley, Cote, Curran, Davis, Dellert, Diamond, Dore, Erwin, P.; Garland, Greenlaw, Gurney, Gwadosky, Hale, Hardy, Hanley, Harper, Hepburn, Higgins, Hoglund, Holloway, Ingraham, Jacques, Joseph, Ketover, Kilkelly, LaPointe, Lebowitz, Look, MacBride, Macomber, Mahany, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mitchell, Moholland, Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Norton, Nutting, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Perry, Pines, Pouliot, Rand, Reed, Rice, Richard, Rotondi, Rydell, Smith, Stanley, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Tamaro, Taylor, Telow, Tracy, Tupper, Vose, Warren, Webster, M.; Whitcomb, Willey, The Speaker.

NAY - Aliberti, Anthony, Clark, H.; Clark, M.; Coles, Duffy, Dutremble, L.; Farnum, Farren, Foss, Foster, Gould, R. A.; Hichborn, Hickey, Holt, Hussey, Jackson, Lacroix, Lawrence, Lord, McPherson, Mills, Murphy, E.; Nicholson, Paul, Rolde, Ruhlin, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Simpson, Small, Soucy, Swazey, Thistle, Walker, Wentworth, Zirkilton.

ABSENT - Brown, Chonko, Crowley, Dexter, Hillock, Jalbert, Kimball, Lisnik, Priest, Racine, Reeves, Ridley, Stevens, P.; Tardy, Weymouth.

Yes, 94; No, 40; Absent, 15; Vacant, 2; Paired, 0; Excused, 0.

94 having voted in the affirmative and 40 in the negative with 15 being absent and 2 vacant, the motion to accept the Majority "Ought Not to Pass" was accepted. Sent up for concurrence.

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

(Off Record Remarks)

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

On motion of Representative Martin of Van Buren,
Adjourned until Wednesday, June 10, 1987, at
nine-thirty in the morning.

In Senate Chamber
Tuesday
June 9, 1987

Senate called to Order by the President.

Prayer by the Honorable N. Paul Gauvreau of
Androscoggin.

SENATOR GAUVREAU: Let us pray. Lord, as we
embark upon a new Legislative Day, we ask You to give
us the strength to perform the days tasks with vigor
and vitality. We ask You to give us the wisdom to
address the days issues with reason, understanding
and intellect. We ask You to give us the patience to
deal with one another and those who come before us
with respect and kindness. We ask You to give us the
courage to make our difficult decisions based upon
our common principles and ideals. We ask this in the
name of Christ our Lord. Amen.

Reading of the Journal of Yesterday.

COMMITTEE REPORTS

House

Ought Not to Pass

The following Ought Not to Pass Report shall be
placed in the Legislative Files without further
action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Improve the State's Capability to
Respond to a Hazardous Materials Incident"
H.P. 1125 L.D. 1528

Leave to Withdraw

The following Leave to Withdraw Reports shall be
placed in the Legislative Files without further
action pursuant to Rule 15 of the Joint Rules:

Bill "An Act Concerning Eligibility Levels for
the Elderly Householders Tax and Rent Refund Act"
H.P. 100 L.D. 110

Bill "An Act to Encourage Employers to Assist
their Employees in Meeting Their Child Care Needs and
Expenses"
H.P. 102 L.D. 112

Bill "An Act to Establish a Dependent Care Tax
Credit"
H.P. 153 L.D. 194

Bill "An Act to Undedicate the Alcoholism
Prevention, Education, Treatment and Research Fund"
H.P. 159 L.D. 200

Bill "An Act to Extend the Homeowner
Weatherization Program"
H.P. 160 L.D. 201

Bill "An Act to Increase the Personal Needs
Allowance for Supplemental Security Income Recipients
who are Residents of Nursing Homes"
H.P. 161 L.D. 202

Bill "An Act to Provide Energy Grants to Schools
and Hospitals Under the 'Institutional Conservation
Program'"
H.P. 274 L.D. 357

Bill "An Act to Increase the Amount the State
Contributes to the Supplemental Security Income
Program for those Living in the Community"
H.P. 328 L.D. 427

Bill "An Act to Allow Nonprofit Youth Recreation
Organizations to be Exempt from Sales Tax"
H.P. 393 L.D. 527