

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

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
86th Legislative Day
Thursday, June 11, 1987

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

Prayer by Reverend Arthur H. St. Pierre, Immaculate Heart of Mary Church, Fairfield.

The Journal of Wednesday, June 10, 1987, was read and approved.

Quorum call was held.

The following Communication:

STATE OF MAINE
 ONE HUNDRED AND THIRTEENTH LEGISLATURE
 JOINT SELECT COMMITTEE ON CORRECTIONS
 June 9, 1987

The Honorable John L. Martin
 Speaker of the House
 113th Legislature
 Dear Speaker Martin:

We are pleased to report that all business which was placed before the Joint Select Committee on Corrections during the First Regular Session of the 113th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	9
Unanimous reports	8
Leave to Withdraw	6
Ought to Pass	1
Ought Not to Pass	0
Ought to Pass as Amended	0
Ought to Pass in New Draft	1
Divided reports	1
Carry Overs	0

Respectfully submitted,
 S/Sen. Beverly Miner Bustin S/Rep. Harlan R. Baker
 Senate Chair House Chair
 Was read and ordered placed on file.

ORDERS

On motion of Representative WARREN of Scarborough, the following Joint Order: (H.P. 1325)

Ordered, the Senate concurring, that Bill, "AN ACT to Clarify the Offense of Driving under the Influence of Illegal Drugs." H.P. 1188, L.D. 1618, be recalled from the legislative files to the House of Representatives.

Was read.

The SPEAKER: Pursuant to the rules, a two-thirds vote of the members present and voting is necessary. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

98 having voted in the affirmative and 4 in the negative, the Joint Order received passage and sent up for concurrence.

REPORTS OF COMMITTEES

Ought to Pass in New Draft/New Title

Representative CROWLEY from the Committee on Economic Development on Bill "An Act to Create the Department of Community and Economic Development and to Establish Consistency among Economic Development Laws" (H.P. 857) (L.D. 1151) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Create the Department of Economic and Community Development, to Establish Consistency among Economic Development Laws and to Establish a Capital Budgeting and Planning Process" (H.P. 1324) (L.D. 1808)

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.

PASSED TO BE ENACTED

Emergency Measure

An Act to Clarify and Limit Personal Liability of Volunteer Firemen and Volunteer Ambulance Drivers (H.P. 1299) (L.D. 1777)

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. 107 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 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. 1305) (L.D. 1784)

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. 107 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 Streamline the Delivery of Residential Treatment Services to Children in Need (H.P. 323) (L.D. 422) (C. "A" H-277)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Continue the Potato Marketing Advisory Program (H.P. 1183) (L.D. 1613) (C. "A" H-282)

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 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

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

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 5

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

ENACTOR
Emergency Measure
Later Today Assigned

RESOLVE, to Establish a Task Force on Post-secondary Education Financing (H.P. 1294) (L.D. 1772)

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.

PASSED TO BE ENACTED

An Act to Require the Installation of Telecommunication Devices for the Hearing and Speech Impaired in Public Facilities (H.P. 1295) (L.D. 1773)

An Act to Reform the Animal Welfare Laws (S.P. 599) (L.D. 1759)

An Act Relating to Significant Energy Agreements and Contracts by Electric Utilities (S.P. 604) (L.D. 1779)

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.

ENACTOR
Later Today Assigned

An Act to Establish the Maine Court Facilities Authority (H.P. 329) (L.D. 428) (C. "A" H-265)

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

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

ENACTOR
Later Today Assigned

An Act to Require the Members of the Maine Turnpike Authority to be Confirmed (H.P. 885) (L.D. 1186) (H. "A" H-272)

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

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

PASSED TO BE ENACTED

An Act Relating to the Payment of Dues to Grower Organizations by Handlers and Processors of Farm Products (H.P. 1280) (L.D. 1753) (H. "A" H-279)

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)

An Act to Enhance the Marketability of Titles (H.P. 1298) (L.D. 1776)

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

PASSED TO BE ENACTED

An Act to Clarify the Authority of the Superintendent of Insurance to Assign Risks for Workers' Compensation Insurance (H.P. 1301) (L.D. 1780)

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

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

Representative ARMSTRONG: Mr. Speaker, Ladies and Gentlemen of the House: If I could, I would like to pose a question through the Chair to anybody on the Banking and Insurance Committee in reference to this bill.

The only concern I have and I haven't had a chance to look at it but having been in the insurance business in the past, (which I am no longer in) I know that there are a number of small domestic fire insurance companies in the State of Maine, State Mutual, Maine Mutual, Boothbay Mutual and there are a number of towns -- assessable mutuals. Does this bill in any way give the Superintendent of Insurance the power of authority to put these small domestic fire insurance companies into the workers' compensation business? Would he have any right to assign workers' compensation cases to these companies that have in the past had no history of handling workers' compensation business?

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

The Chair recognizes the Representative from Brunswick, Representative Rydell.

Representative RYDELL: Mr. Speaker, Ladies and Gentlemen of the House: In answer to that question, the superintendent may make assignments of specific insured to specific insurers who are already required to participate in accident prevention or in the safety pool account in workers' compensation.

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

Representative WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you would vote against this measure. I find this quite unnecessary at this time.

I ask for a roll call, please.

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

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

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

ROLL CALL NO. 130

YEA - Aliberti, Allen, Anthony, Baker, Bost, Boutilier, Brown, Carroll, Carter, Chonko, Clark, H.; Clark, M.; Conley, Cote, Crowley, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Foster, Gould, R. A.; Gwadosky, Hale, Handy, Hickey, Higgins, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Kimball, Lacroix, LaPointe, Lisnik, MacBride, Macomber, Mahany, Manning, Marsano, Martin, H.; McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; Nutting, Paradis, J.; Paradis, P.; Paul, Perry, Pouliot, Priest, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlman, Rydell, Scarpino, Seavey, Sheltra, Simpson, Smith, Soucy, Stevens, P.; Strout, D.; Swazey, Tammaro, Taylor, 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, Garland,

Greenlaw, Hanley, Harper, Hepburn, Hillock, Holloway, Ingraham, Jackson, Lawrence, Lebowitz, Look, Lord, Matthews, K.; McPherson, Murphy, E.; Murphy, T.; Nicholson, Norton, Paradis, E.; Pines, Reed, Rice, Salsbury, Sherburne, Small, Stevens, A.; Stevenson, Strout, B.; Tupper, Webster, M.; Wentworth.

ABSENT - Cashman, Coles, Gurney, Hichborn, Mayo, McGowan, O'Gara, Parent, Racine, Reeves, Stanley, Tardy, Weymouth, Whitcomb, Zirkilton.

Yes, 87; No, 47; Absent, 15; Vacant, 2; Paired, 0; Excused, 0.

87 having voted in the affirmative and 47 in the negative with 15 being absent and 2 vacant, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Require Licensing of Adult Day Care Services in Maine (H.P. 1304) (L.D. 1783)

An Act to Amend the Inflation Incrementing Provision in the Tax Laws (H.P. 896) (L.D. 1197) (C. "A" H-263)

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.

ENACTOR

Later Today Assigned

An Act to Allow Increased Participation of State Employees in the Electoral Process (S.P. 606) (L.D. 1796)

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 Provide a Sales Tax Trade-in Credit for Loaders used to Harvest Lumber (H.P. 728) (L.D. 980) (C. "A" H-281)

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

ENACTOR

Later Today Assigned

An Act to Prevent Criminals from Profiting as an Indirect Result of Their Crime (H.P. 1297) (L.D. 1775)

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

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

ORDERS OF THE DAY
UNFINISHED BUSINESS

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

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

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

TABLED - June 10, 1987 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Final Passage.

On motion of Representative Manning of Portland, under suspension of the rules, the House reconsidered its action whereby L.D. 1687 was passed to be engrossed.

The same Representative offered House Amendment "B" (H-300) and moved its adoption.

House Amendment "B" (H-300) was read by the Clerk and adopted.

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

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

An Act Relating to Taxation of Trucks (H.P. 1284) (L.D. 1757)

TABLED - June 10, 1987 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

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

TABLED AND TODAY ASSIGNED

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

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)

- In House, Chair ruled Majority New Draft under New Title Bill "An Act to Limit Electric Hook-up Fee Requirements by Electric Utilities" (H.P. 1289) (L.D. 1767) not germane.

TABLED - June 10, 1987 by Representative VOSE of Eastport.

PENDING - Further Action.

On motion of Representative Vose of Eastport, the Minority "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.

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

SENATE DIVIDED REPORT - Majority (7) "Ought Not to Pass" - Minority (5) "Ought to Pass" in New Draft (S.P. 607) (L.D. 1797) - Committee on State and Local Government on Bill "An Act to Allow Aroostook County to Contract for Services for the Operation of the County Jail" (S.P. 380) (L.D. 1156)

- In Senate, Minority "Ought to Pass" in New Draft Report read and accepted and the New Draft passed to be engrossed.

TABLED - June 10, 1987 by Representative GWADOSKY of Fairfield.

PENDING - Motion of Representative CARROLL of Gray to accept the Majority "Ought Not to Pass" Report.

On motion of Representative Carroll of Gray, retabled pending his motion that the House accept the Majority "Ought Not to Pass" Report and later today assigned.

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

RESOLVE, to Establish the Maine Commission to Review Overcrowding at the Augusta Mental Health Institute and the Bangor Mental Health Institute (Emergency) (S.P. 588) (L.D. 1742)

- In House, Finally Passed on June 8, 1987.

- In Senate, Passed to be Engrossed as amended by Senate Amendment "A" (S-139) in non-concurrence.

TABLED - June 10, 1987 by Representative DIAMOND of Bangor.

PENDING - Further consideration.

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

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

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)

- In House, Minority "Ought to Pass" as amended Report of the Committee on Taxation read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-274) on June 9, 1987.

- In Senate, Majority "Ought Not to Pass" Report of the Committee on Taxation read and accepted in non-concurrence.

TABLED - June 10, 1987 by Representative DIAMOND of Bangor.

PENDING - Further Consideration.

Subsequently, the House voted to insist.

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

SENATE PAPERS

Bill "An Act to Authorize Kennebec County to Raise up to \$9,500,000 for Construction and Improvement of Jail Facilities for Kennebec County" (S.P. 614) (L.D. 1809)

Came from the Senate, referred to the Committee on State and Local Government and Ordered Printed.

Was referred to the Committee on State and Local Government in concurrence.

Ought to Pass in New Draft

Report of the Committee on Economic Development on Bill "An Act Providing for the 1987 Amendments to the Finance Authority of Maine Act" (S.P. 511) (L.D. 1535) reporting "Ought to Pass" in New Draft (S.P. 613) (L.D. 1807)

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 as Amended

Report of the Committee on Human Resources reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-159) on Bill "An Act to Make Technical Amendments in the Certificate of Need Act to Expedite the Process" (S.P. 483) (L.D. 1460).

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-159) and Senate Amendment "A" (S-149).

Report was read and accepted, the bill read once. Committee Amendment "A" (S-159) was read by the Clerk and adopted.

Senate Amendment "A" (S-149) was read by the Clerk.

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

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to make a motion to oppose Senate Amendment "A" but I would like to make a few comments as to what Senate Amendment "A" is and how it changes the bill.

Basically, this was a department bill to make technical amendments in the Certificate of Need Act to expedite the process as it applied to nursing homes. It makes some minor improvements in the Certificate of Need process and I will state that they are very minor.

What Senate Amendment "A" does is it tries to incorporate in the bill a proposal that came from a so-called advisory committee on CON. It was a proposal that essentially was rejected by the majority of the committee. Let me just very briefly explain what it does.

Right now, there is a \$350,000 exemption for any nursing home, for any construction it wants to make, and also for any transfer of ownership. In other words, if it is under \$350,000 for both construction or transfer of ownership, it is exempt from CON. What Senate Amendment "A" does, it is sort of one step forward and two steps back in trying to make the Certificate of Need process more expeditious. What it does is it raises the threshold from \$350,000 to \$500,000 for construction but it takes away entirely the exemption for transfer of ownership.

I have talked to the nursing home industry and I was prepared to fight this amendment, but they have said it is really not worth their effort. It might apply to only a few nursing homes in the state. They would rather save their ammunition for some of the other bigger problems dealing with CON. I just wanted to put on the Record that obviously I and others will be watching very carefully to see how this is. If it is handled as it has been in the past where, for example, a small nursing home had to wait fifteen months to get an approval of transfer of ownership, and then have it turned down, and then be in a position where they are not able to run that nursing home as well as they could have if it had been sold. We will be back.

Subsequently, Senate Amendment "A" was adopted.

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

Non-Concurrent Matter

Bill "An Act to Create Job Opportunity Zones" (H.P. 1116) (L.D. 1512) on which the Minority "Ought to Pass" in New Draft (H.P. 1313) (L.D. 1791) Report of the Committee on Economic Development was read and accepted and the New Draft (H.P. 1313) (L.D. 1791) passed to be engrossed in the House on June 9, 1987.

Came from the Senate with the Majority "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) Report of the Committee on

Economic Development read and accepted and the New Draft (H.P. 1312) (L.D. 1790) passed to be engrossed in non-concurrence.

Representative Crowley of Stockton Springs moved that the House recede and concur.

On further motion of the same Representative, tabled pending his motion that the House recede and concur and later today assigned.

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

The Chair laid before the House the following matter: RESOLVE, to Establish a Task Force on Post-secondary Education Financing (H.P. 1294) (L.D. 1772) which was tabled earlier in the day and later today assigned final passage.

On the motion of Representative Bost of Orono, the House reconsidered its action whereby L.D. 1772 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-297) and moved its adoption.

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

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

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

(At Ease)

The House was called to order by the Speaker.

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

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

(After Recess - 11:00 a.m.)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Bill "An Act to Establish the Maine Court Facilities Authority" (H.P. 329) (L.D. 428) (C. "A" H-265) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Carroll of Gray, under suspension of the rules, the House reconsidered its action whereby L.D. 428 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-265) was adopted.

The same Representative offered House Amendment "A" (H-303) to Committee Amendment "A" (H-265) 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 passed to be engrossed as amended by Committee Amendment as amended by House Amendment "A" thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: RESOLVE, to Establish the Maine Commission to Review Overcrowding at the Augusta Mental Health Institute and the Bangor Mental Health Institute (Emergency) (S.P. 588) (L.D. 1742) which was tabled earlier in the day and later today assigned pending further consideration.

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

Senate Amendment "A" (S-139) was read by the Clerk.

On motion of Representative Manning of Portland, Senate Amendment "A" was indefinitely postponed.

Representative Manning of Portland offered House Amendment "B" (H-302) and moved its adoption.

House Amendment "B" (H-302) 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.

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

(At Ease)

The House was called to order by the Speaker.

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

REPORTS OF COMMITTEES

Ought to Pass in New Draft/New Title

Representative BOST from the Committee on Education on Bill "An Act to Create the Post-secondary Enrollment Options Act for 11th and 12th Grade Students" (H.P. 592) (L.D. 803) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Create the Post-secondary Enrollment Options Act" (H.P. 1326) (L.D. 1810)

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

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

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Education on Bill "An Act to Create a Maine Post-Secondary

Educational Loan Program" (H.P. 954) (L.D. 1283) reporting "Ought to Pass" in New Draft (H.P. 1327) (L.D. 1811)

Signed:

Senators:

KANY of Kennebec
RANDALL of Washington
ESTES of York

Representatives:

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

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

Signed:

Representative:

SMALL of Bath

Reports were read.

On motion of Representative Bost of Orono, the House voted to accept the Majority "Ought to Pass" Report, the New Draft read once.

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

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

BILL HELD

Bill "An Act to Establish the Maine Court Facilities Authority" (H.P. 329) (L.D. 428)

- In Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-265)

- In House, Passed to be Engrossed as amended by Committee Amendment "A" (H-265) as amended by House Amendment "A" (H-303) thereto in non-concurrence.

HELD at the Request of Representative CARROLL of Gray.

On motion of Representative Carroll of Gray, the House reconsidered its action whereby L.D. 428 was passed to be engrossed.

On motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-265) was adopted.

The same Representative offered House Amendment "B" (H-304) to Committee Amendment "A" (H-265) and moved its adoption.

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

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

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

The Chair laid before the House the following matter: Bill "An Act to Require the Members of the Maine Turnpike Authority to be Confirmed" (H.P. 885) (L.D. 1186) (H. "A" H-272) 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.

(Off Record Remarks)

On motion of Representative Moholland of Princeton,

Recessed until five o'clock in the afternoon.

(After Recess - 5:25 p.m.)

The House was called to order by the Speaker.

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

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Ensure Safe Abatement of Asbestos Hazards (H.P. 1286) (L.D. 1762) (S. "A" S-150; H. "A" H-278)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

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 (S.P. 605) (L.D. 1793)

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. 114 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.

ENACTOR

Emergency Measure

Later Today Assigned

An Act to Allocate the Proceeds of the Sale of General Fund Bonds for Construction and Renovation of Correctional Facilities (S.P. 610) (L.D. 1800)

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

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Revise the Salaries of Certain County Officers (H.P. 1318) (L.D. 1802)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and 6 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Provide for Noise Generated by Developments (H.P. 1319) (L.D. 1803)

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 8 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENGROSSED

RESOLVE, Requiring the Department of Conservation to Study the Problem of Submerged Watercraft in Coastal Waters of the State (H.P. 1316) (L.D. 1795)

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

On motion of Representative Carroll of Gray, under suspension of the rules, the House reconsidered its action whereby L.D. 1795 was passed to be engrossed.

The same Representative Carroll offered House Amendment "A" (H-292) and moved its adoption.

House Amendment "A" (H-292) 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.

FINALLY PASSED
Emergency Measure

RESOLVE, Creating the Commission to Study the Use of Involuntary Services for Substance Abusers (S.P. 324) (L.D. 952) (C. "A" S-160)

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 Resolve was finally passed, signed by the Speaker and sent to the Senate.

ENACTOR
Emergency Measure
Later Today Assigned

RESOLVE, to Establish the Juvenile Corrections Planning Commission (H.P. 1302) (L.D. 1781) (H. "A" H-283)

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

On motion of Representative Anthony of South Portland, tabled pending final passage and later today assigned.

FINALLY PASSED
Emergency Measure

RESOLVE, to Authorize Extending the Issuance of Certificates of Good Standing to September 1, 1987 (H.P. 1317) (L.D. 1801)

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 Resolve was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENGROSSED

An Act to Require Maintenance of Financial Responsibility by All Motorists (S.P. 608) (L.D. 1798)

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

On motion of Representative Pouliot of Lewiston, the House reconsidered its action whereby L.D. 1798 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-294) and moved its adoption.

House Amendment "A" (H-294) was read by the Clerk.

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: I rise here today to tell you that I, too, feel like the rest of the members of this House in the bill that we discussed yesterday that this is a bill whose time has come. I am not trying to destroy this piece of legislation. I believe in the same things that you believe in, but I have constituents that I wish to represent and, having worked on the Business Legislation Committee, we had a study committee that tried to study this thing. I think then, if I recall, we did say that we were going to try to do something for Maine people.

The bill is now before us and we are trying to do something. I feel that with all the good intentions of what the bill is trying to do, it is too weak. It has no strength. I have had some people like you have back home, who have been hit by uninsured motorists, and I have been trying to follow this legislation very closely. The three people in my district who have called me about it have asked me, "Gee Roger, whatever you do, make sure that if something does happen, if we ever get hit again by an uninsured motorist, that there is something there." This is where I am coming from.

If you read just the Statement of Fact, I don't want to bore you with anything else, it says this amendment requires a person to produce evidence of insurance or financial responsibility before a person may register their vehicle. We debated this before. My intention is, once he shows that he has the insurance -- there's always some intention at one time -- well, a month later or three months later, the heck with it, I have got my registration, that's it. Now, I am not going to pay my next month's premium, my quarterly premium, or whatever it may be.

I tried to go one step further -- if you will notice in Amendment "A," the amendment also provides that the additional penalty of impoundment for the person who does not comply with the provisions of the bill. What I am saying here is, if you decide to pay for the insurance one month and then decide to cancel it out, the impoundment feature will only happen the day you get stopped. For example, I decide that I want to circumvent the law, pay for one month's premium, throw it away, who is to say that I won't have to go through a roadblock some day? Who is to say that I may not forget and do a little speeding some day and get stopped? The police officer will ask me for my registration, he will ask me for my driver's license, and this is where I will have to show proof of insurability. If I don't have it, it will be up to his discretion. That is where the impoundment comes in. It may be tough, I don't deny that, but that is putting teeth in the bill.

We also have studied and heard people say that 85 percent to 88 percent of the people do carry insurance. I would not think of going out without automobile insurance. So that means there are 12 or 15 percent that do not want to comply. We also heard that, if you enact the piece of legislation which we now have, it could change anywhere from 3 to 4

percent. I agree with that, but I will tell you right now ladies and gentlemen of this House, you put an impoundment feature in this bill, maybe that 3 percent will be 10 percent. That is all I am trying to do. Let's put some teeth in the bill.

Mr. Speaker, I would ask for a roll call.

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

Representative RYDELL: Mr. Speaker, Ladies and Gentlemen of the House: I move indefinite postponement of House Amendment "A."

With respect to requiring proof of insurance at the time of registration, the committee carefully considered this particular provision. We rejected it for a couple of very important reasons. First of all, it would require the person taking the registration to note on the registration form that the insurance had been verified and to take responsibility that that insurance policy was in effect. The burden that this would place on the employees at the Motor Vehicle Registration and on our local municipal officials, who are also taking car registrations, is unknown. This has not been discussed with the municipal officials. We do not know what kind of an effect this would have on their willingness to continue to register motor vehicles at our local town offices.

Also, the amendment provides for no tracking system to be sure the insurance is maintained. That would be very costly, so it really provides little in addition to the bill itself. Insurance agents have clearly stated that they are opposed to this requirement. It would be a paperwork nightmare they have told us as people at the last moment need proof of insurance. They deal with many different insurance companies, different policies and procedures, and would not be able to provide this kind of proof of insurance to their customers at the very last moment. It would take several days and would delay registrations. For these reasons and after much discussion, the committee could not recommend this provision at this time.

With respect to impounding cars, I certainly would not want to be the legislator on the other end of the telephone line when irate constituents screamed at me because their insurance agent did not get a document to them in time or they simply forgot to renew an insurance policy which happened to have run out the day before. Then no one in the house, I repeat, no one in the house, would then be able to drive that car, even people who may have purchased non-owner or operator insurance policies that would still be in effect even though the owner's had lapsed.

What about the state policy who would be responsible for impounding all of those cars, storing them and processing the paperwork for their return to owners? The Office of Program and Fiscal Review has notified me that there would, indeed, be a fiscal note on this amendment, but they are unable to calculate the extent of the cost of this type of amendment with the impoundment and the paperwork that it would entail.

So for these reasons, the committee had rejected all of these kinds of provisions. I would ask you to please vote for indefinite postponement of this amendment.

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

Representative BOTT: Mr. Speaker, Men and Women of the House: I would strongly urge you to support the pending motion for indefinite postponement of this amendment. The committee worked long and hard with proposals that included this one and many others, and I mean long and hard. We spent a lot of

long hours looking at a lot of data in trying to weigh all of the different factors that go into crafting a law such as the one that you have before you. We came up with nine members of that committee that thought that we had a proposal that took the right step in the right direction towards reducing that risk out there while, at the same time, we did not jeopardize the favorable position that we have vis-a-vis with other states in this country in terms of the average rate of auto premiums paid.

The previous speaker mentioned that this bill could reduce the pool of uninsured motorists by 3 or 4 percent and that is correct. That is the range that we would hope to reduce it by, realizing that that is far short of 13 or 15 percent that, in fantasy land, we would like to see eliminated with one law.

I would submit to you that the experience of other states around the country in passing legislation that includes certain elements of the amendment that is now before you -- in those states, the experience in reducing that pool of uninsured motorists, has never exceeded the 6 to possibly 8 percent range. Even when the range has been realized and it is 6 to 8 in many instances down the road, that has again been further reduced. So what the committee attempted to do was to go as far as possible towards reducing the uninsured motorist, hoping that we get at least 3 to 4 percent. We did not feel that we wanted to take as drastic a step as this amendment because then we might be talking about increases to consumers on their insurance premiums in the neighborhood of 30 to 40 percent.

I would urge the House to support the pending motion and reject this. We looked at it long and hard in committee. We tried to do what was best, given the reality of the situation. I think we have a good law that is a step in the right direction. It probably is not as far as we could go, but how far do we want to go, if the insurance rates that we all pay, go sky high in the process? I submit to you, speaking as the Representative from District 130, my constituents would not want an increase in their auto insurance premiums of perhaps 30 to 40 percent.

The bill that we have before us has a study provision in it so we can take a look at this in a couple or three years down the road and, hopefully, go further in addressing the problem without upsetting the balance and not increasing our auto insurance rates.

I would urge you to indefinitely postpone this amendment and pass the bill. Let's see if we can take a step forward in the fight to get the uninsured motorists to insure themselves and assume responsibility and make our highways safer.

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.

My question is, if I am person "X" who registers my vehicle, shows a proof of insurance at the time of registering that vehicle, and then at a later date for some reason, chooses not to continue my insurance, I am driving someone else's vehicle, I am stopped at a roadblock for a possible violation, I am asked for proof of insurance, registration and license, and I cannot show proof of insurance. Whose vehicle is going to be impounded? The vehicle I am driving or my vehicle that is parked somewhere else in the state?

The SPEAKER: The Representative from Lewiston, Representative Boutilier, has posed a question

through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Casco, Representative Simpson.

Representative SIMPSON: Mr. Speaker, Ladies and Gentlemen of the House: As I understand the question, the answer would be the vehicle of the owner, the vehicle that you are driving. The idea is that that vehicle needs to be insured.

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

Representative CURRAN: Mr. Speaker, Men and Women of the House: I worked long and hard on this bill with the other members of the committee and I ask your support in defeating the amendment and supporting the motion on the floor. The amendment, as well intentioned as it is, is contrary to the care that we gave this matter in committee, and we gave it plenty of care, contrary to any of the testimony that we heard on it. Now, I will have to say to Mr. Pouliot and to the rest of you here that, although I agree that the guts of this matter would be better served in my opinion by requiring that proof of insurance be required in order to register a car for the good purposes that we are trying to produce here, immediate impoundment is especially punitive. That is not what we are trying to do at all. It will only enrich the coffers of the tow truck operators, if it doesn't kill this bill altogether.

We want to get this subject moving again, we want to get this bill moving again. We have gone over and over this in committee, as I have told you before. It is not practical or reasonable to try to patchwork this in a few minutes tonight when we are all under this kind of pressure, especially when we could not do it with all of the hours that we had to work on it in committee.

I confess to you here, I think everyone in this state will be better off when we have this mandatory insurance business put properly in place, which I think Representative Pouliot is trying to do. But I would submit to you that this is not the time to talk of impoundment. It is not the time to talk of the possibilities of defeating the bill because of its stringent features.

So I ask you again, please defeat the amendment of voting for indefinite postponement if it will cause you not to support the entire bill or to support the amendment if you will go all the way with it.

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

Representative RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: This insurance problem has been around here ever since I have been down here and that is going on seven years. I have heard a lot from my constituents at home and, in the past, I have to admit I have been opposed to mandatory insurance. I think the time has come and I think all of us agree the time has come that we have to take some drastic steps. If this is going to be successful and we want to rid our highways of people driving without insurance, steps like this are going to have to be taken. We have done it in other areas such as drunken drivers. You really have to put some teeth into this thing if you want to get results.

True, it is going to be a slight inconvenience but I used to have a bus contract and I had to actually show proof of insurance before I could register the bus. Some years I would get a letter from the state saying that they hadn't got that form FR2 from the insurance company stating that I had insurance. I would call my insurance agent and he would check with the company and they would say that

they have filed, then the Secretary of State's Office would find that I did. Taxi cabs have to do the same thing.

I don't think that this would have to be handled on the local level through your town clerk. It could be handled at the state level. This is where the insurance company sends their form, it is what they call an FR2 form, indicating that you do have insurance. With the computers and whatnot that we have today, I think they could match that up very quickly. They are doing it now as far as taxi cab drivers are concerned, as far as buses are concerned, and there might well be some other areas that they are doing this.

Maybe it is going to cost us something. I think with what we have done with the bill without this amendment, it is going to give the insurance companies enough fuel so they are going to increase your rates anyway. If we are going to have them increased, well let's have them increased for a good reason.

It is really heartbreaking -- in my town, in fact the young girl was down here testifying that she was hit in an automobile and it was by an uninsured motorist and they ran up bills close to \$80,000. They don't have any money and they have this hanging over their head. You talk about your insurance rate going up, it is going to cost you money, people that are involved in such an instance as this, where do you think the money comes from? If they don't have the money to pay the hospital bills, they are unable to work, they go back on the state and it is you and I that pick up the tab anyway. So, even though this is a drastic measure, I think it would be well worth it, well advised to go along with this amendment that is proposed here today.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: With all due respect for the good intentions of the proposer of this amendment and the supporters of it, I do not believe that the way you make effective state policy is to spend many years doing nothing and then put in something which is a drastic step. I look at this bill as a moderate first step in the development of an effective state policy in dealing with this difficult problem that we all have to deal with. I do not believe that passage of this amendment which does, I quite agree, turn it into a rather drastic proposal, is the proper way to go. I urge this body to support the careful work of the committee and go forward with this modest proposal, reject this amendment, and get on with it so we have something started in this state towards the development of an effective policy in this area.

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

Representative SIMPSON: Mr. Speaker, Men and Women of the House: Once again, I would like to point out that this bill does have teeth in it. There is a \$100 fine if you are stopped and you do not have proof of insurance.

We debated, some time ago, the issue of raising the speed limit from 55 to 65. We talked about a fine increase from \$25 to \$50 as being too harsh. We are talking about a \$100 minimum fine for not being able to provide proof of insurance.

As to the argument that the person would no sooner get their insurance and then drop it, we are requiring that they have insurance for a minimum of three months. It is illogical to think that they would get that insurance to avoid paying the \$100 fine and then drop it at the end of three months and

face the whole scenario over again of paying \$100 fine if they don't have insurance for three months.

Once again, I urge you to support this motion to indefinitely postpone this amendment. This is a bill that was carefully worked out and it will work, given a chance and the sunset that is going to be in this bill looking at the statistics that we turn up will allow us to work out, in three years, any problems that this bill should have.

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

Representative SHELTRA: Mr. Speaker, Ladies and Gentlemen of the House: I have been in the insurance business for a number of years. I am not now but I do know that, back along, when we wrote a policy, if written annually, there was a set premium. If you wrote it for a three year period, you had a reduced rate. If you wrote it for a five year period, you had an additional reduced rate.

I can't imagine my good friend, Representative Bott, who brought up the issue that, if we should adopt this amendment, why our insurance rates are going to go up 40 percent. What do you think these people are going to pay that buy an insurance policy for a three month period? They are going to sustain a 30 to 40 percent increase, plus the fact that you are going to create chaos in the insurance office itself. What about the renewal of these three month premiums? It just seems impossible to me that the insurance agents will be able to keep up with these changes. As it is now, annually it gives them trouble. By the way, they do send you a renewal policy plus, not only a certificate of insurance, but they do send you a business card in which you can insert it in your wallet.

The way that we have it now, the bill itself doesn't protect any of us from the first accident that occurs. It is mandatory only upon the second accident. This is where the rub comes in. I think that the public should be forewarned and I think that it should be mandatory from the outset that they have to have compulsory insurance. I don't think that your rates would go up that high. The only thing that I can see from what is going on is that the insurance companies are the ones that are lobbying most of us here in order to keep their business at a lower cost to themselves. This threat of a 30 and 40 percent increase in insurance rates, I don't believe at all. I think that is untrue and I hope that you do support the amendment.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Rydell of Brunswick that House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

69 having voted in the affirmative and 40 in the negative, the motion to indefinitely postpone House Amendment "A" did prevail.

Representative Rydell of Brunswick offered House Amendment "B" (H-317) and moved its adoption.

House Amendment "B" (H-317) was read by the Clerk and adopted.

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

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

PASSED TO BE ENACTED

An Act to Prevent Abuse of Handicapped Parking Spaces (S.P. 458) (L.D. 1402) (H. "A" H-290 to C. "A" S-148)

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

PASSED TO BE ENACTED

An Act to Ensure Confidential and Reliable Substance Abuse Testing of Employees and Applicants (H.P. 1310) (L.D. 1788)

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

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

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: This is the latest version of drug testing in the workplace. I urge your defeat and ask for a roll call.

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

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

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: Yes, this is a final compromise. We started way at the left and way to the right. We met half way with L.D. 1400 and now with this L.D., we have gone 80 percent. We gave the Governor pretty darn near everything he wanted except one thing and that is random testing because every court case that we have heard so far prohibits random testing saying it is unconstitutional. True, it is in the public sector but I, for one, don't believe that we should be treating our people differently in the private sector than in the public sector.

I truly believe that we ought to pass this bill. One good reason that I believe that we should be passing this bill is, if the people who want control of the way drug testing is going to be done in the state, go out and petition, I assure you the bill would be tighter than what we have.

Vermont has had a bill similar to what we had in L.D. 1400. In Vermont, the people called it a management bill, an industrial bill, an anti-labor bill and over here, they say it is a labor bill. So, it depends where you are at. This bill that we have presently is really, really, it is almost random testing — it isn't, but we gave a lot. I believe we gave almost too much. But I figure some control is better than no control and, if there is going to be any abuse in the future, we can come back and rectify the abuse. Presently, we cannot rectify what we don't have, we don't have a law on the books. Presently, any employer may do as he or she wishes.

You know there are people in this state that wish to control our people if they could. They would tell them what time to go to bed, what time to get up, what to eat and what to wear and what to read. We have had that referendum before the people and the people spoke out very, very strongly that you will not tell us what to read. The person that is vetoing this bill and is probably taking a veto on this one is a person that said yes, we should control what you read. Now this very same person is telling us, I am going to veto this bill and I, for one, believe that if he does, I am sure that the rank and file of the

working people will go out and petition and they will put out a bill which is worse as far as industry is concerned than what we have presently. I am sure they are going to win, I have no doubt in my mind. We think we know it all but we do not. I think the people of the State of Maine are smart, intelligent and they know what is good for the people. Even if they are not working people, I know management people that do not like this attitude that we have in this state to control our people.

If you need laws to hold back on management that are going way off, way out on the end and are not treating their employees properly and are abusing their employees, and random testing would be abuse, it would not help, it would abuse employees. That is why we have chosen not to go with random testing.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: Representative McHenry has told you that there are differences of opinion on this particular bill. I rise tonight to talk about some of those opinions and to read something into the Record as a compliment to the Labor Committee's attempts to compromise and negotiate on this issue.

On May 26th, the Labor Committee chairs wrote a letter to the Governor, "Dear Governor McKernan: As you are aware, the Joint Standing Committee on Labor has expended a significant amount of time and energy this session attempting to fashion reasonable legislation to regulate workplace drug testing. We have been trying to craft a document to protect Maine working people from abusive, unduly, intrusive and inaccurate drug testing, while preserving drug testing as a tool for employers to use in helping to make their workplace safer. We asked for input and we received input. We received 15 points of input from the Governor's Office to craft a document that would be acceptable to all people involved in this issue."

The Labor Committee moved, in my opinion, 95 percent of the way. They accepted 13 of those points and the two points remaining were random testing and liability of the employer to the employee who, in fact, was returned to the workplace after his or her 28 day rehabilitation. We could not agree to that. We could not agree to random testing because it creates two or three levels of persons.

I am appealing to the Governor's good sense of social responsibility. I am appealing to the Governor's sense of social justice. I am appealing to the Governor's sense of decency and privacy of the workers in this state.

The questions that I have to raise today are, who is the Governor listening to? Is the Governor listening to the 554,300 persons who work in this state? All of us work for somebody.

Random testing says that anyone can be tested any time, any place, any how. Let me tell you what employers presently think that good testing is. We had testimony in the Labor Committee by Paul Faulkner and Paul Faulkner said, he didn't object to the fact that he was asked to strip to his shorts and to go into the other room and produce a sample. Now, may I ask you, is that clean drug testing? I am not willing to leave this legislative session without a bill on drug testing. I think I personally have moved 98 percent of the way as far as this issue is concerned. I am interested in protecting the worker from that type of drug testing.

Who is the Governor listening to? Is he listening to the 170,312 people who elected him, 37 percent of the voters? I don't believe that he is because I believe they, too, are employees. Is he

listening to the four corporations and businesses that, in fact, are drug testing in a manner in which I just described? I am appealing to the Governor to listen to the people who elected him, listen to the people who work in this state, listen to the compromise and the negotiations that the Labor Committee has worked out with a great deal of time and a great deal of effort. I commend and compliment each and every one of them.

I ask you tonight, do not defeat this measure. Vote for this measure and send it on its way and let's hope for the best.

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 through the Chair.

As an employee -- who protects me from the employer from the drug testing in the case he may be one of the beneficiaries himself?

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

Would the Representative please restate his question?

Representative CLARK: Mr. Speaker, a lot of times the bill relates to the employee. Who decides if the employer himself may be the user of drugs? Who is going to identify him?

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

The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: In the most recent bill, the latest draft, is probable cause. The probable cause definition was defined from Black's Law Dictionary. All of us know that probable cause is a subjective phrase or a subjective clause. Probable cause can be interpreted in many different ways and I, having just recently looked this up and also looked up random, I see very little differences because random, as it speaks, is any unplanned action. Therefore, they are similar, but not the same.

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

Representative RIDLEY: Mr. Speaker, I would like to pose a question through the Chair.

Does the bill, in its present form, allow for random checking for those people that might be in a position to have other people's lives in their hands such as airplane pilots or train conductors or police men or that sort?

The SPEAKER: Representative Ridley of Shapleigh has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: The answer to that question is no, we do not believe in random testing but, if the good gentleman is worried about the airplane, the Federal Aeronautic Administration are the one's that are having rules made to test pilots. The ICC, the International Commerce Commission are the one's that will test the truck drivers and the Nuclear Regulatory Commission are the one's who are going to be testing the nuclear power plants.

In reference to the good gentleman from Millinocket's question, I believe he wanted to know who is going to be saying that the foreman or the supervisor is under the influence? The only thing that I can say that, in the bill, we have a provision

that says the employer will work with the employee to set up rules and regulations as to how they are going to be tested. Maybe the employee may have some input into it somehow -- I know in my employ, I have a way of reporting my supervisor and I am protected, so I believe that would answer the good gentleman's question.

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

ROLL CALL NO. 131

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

NAY - Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Bragg, Brown, Callahan, Curran, Davis, Dellert, Dexter, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Harper, Hepburn, Holloway, Ingraham, Jackson, Lawrence, Lebowitz, Look, Lord, MacBride, Marsano, McPherson, Murphy, E.; Murphy, T.; Nicholson, Norton, Paradis, E.; Parent, Pines, Reed, Rice, Salsbury, Seavey, Sherburne, Small, Soucy, Stanley, Stevens, A.; Strout, B.; Taylor, Tupper, Webster, M.; Wentworth, Weymouth, Willey.

ABSENT - Carter, Dutremble, L.; Hanley, Higgins, Hillock, Kimball, Macomber, Mayo, McGowan, Racine, Stevens, P.; Stevenson, Whitcomb, Zirkilton.

Yes, 81; No, 54; Absent, 14; Vacant, 2; Paired, 0; Excused, 0.

81 having voted in the affirmative and 54 in the negative with 14 being absent and 2 vacant, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

TABLED AND ASSIGNED

An Act Dealing with the Authority of Harbor Masters (H.P. 1315) (L.D. 1794) (H. "A" H-288)

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

On motion of Representative Carroll of Gray, tabled pending passage to be enacted and specially assigned for Friday, June 12, 1987.

PASSED TO BE ENGROSSED

As Amended

An Act to Maintain Lifeguard Services in State Government (S.P. 415) (L.D. 1273) (S. "A" S-153 to C. "A" S-119)

Was reported by the Committee on Engrossed Bills as truly and strictly 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 further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-119) as amended by Senate Amendment "A" (S-153) was adopted.

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

On motion of the same Representative, the House voted to indefinitely postpone Senate Amendment "A."

On motion of the same Representative, the House voted to indefinitely postpone Committee Amendment "A."

The same Representative offered House Amendment "A" (H-318) and moved its adoption.

House Amendment "A" (H-318) 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 Establish the Aroostook Water and Soil Management Board (S.P. 559) (L.D. 1671) (C. "A" S-162)

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

An Act to Name the Finback Whale as the State Marine Mammal (H.P. 368) (L.D. 482)

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

Representative Allen of Washington moved that the bill and all accompanying papers be indefinitely postponed.

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

Representative CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: In deference that the prime sponsor of this legislation and the prime opponent to this legislation are not here, I would like to have this tabled, if somebody would.

Representative Murphy of Kennebunk moved L.D. 482 be tabled two legislative days.

The SPEAKER: The Chair will order a Division. The pending question before the House is the motion of Representative Murphy of Kennebunk that L.D. 482 be tabled two legislative days. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

55 having voted in the affirmative and 68 in the negative, the motion to table two legislative days did not prevail.

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

Representative SALSBUURY: Mr. Speaker, Ladies and Gentlemen of the House: We are all tired and we don't want to discuss an issue such as this, I know. After all we got rid of the seal issue, we are now on the finback whale. As a cosponsor of the legislation, I urge you to vote against the pending motion.

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

A vote of the House was taken.

Representative Bott of Orono 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 Allen of Washington that L.D. 482 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 132

YEA - Allen, Anderson, Anthony, Begley, Bickford, Bost, Bott, Boutilier, Cashman, Chonko, Clark, M.; Coles, Conley, Cote, Crowley, Diamond, Dore, Duffy, Erwin, P.; Farnum, Gurney, Gwadosky, Hale, Handy, Hickey, Hoglund, Holt, Jacques, Joseph, Ketover, Kilkelly, Lisnik, MacBride, Mahany, Manning, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Nicholson, Nutting, O'Gara, Paradis, J.; Paradis, P.; Paul, Perry, Pouliot, Priest, Rand, Reeves, Rice, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Smith, Soucy, Stanley, Stevens, A.; Strout, B.; Strout, D.; Swazey, Taylor, Thistle, Tracy, Warren, Webster, M.; Wentworth.

NAY - Aliberti, Armstrong, Bailey, Bragg, Brown, Callahan, Carroll, Carter, Clark, H.; Curran, Davis, Dexter, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Harper, Hepburn, Hichborn, Holloway, Hussey, Ingraham, Jackson, Jalbert, Lacroix, LaPointe, Lawrence, Lebowitz, Look, Lord, Marsano, Martin, H.; Matthews, K.; McPherson, Moholland, Murphy, E.; Murphy, T.; Norton, Paradis, E.; Parent, Pines, Richard, Salsbury, Scarpino, Seavey, Sherburne, Simpson, Small, Tamaro, Tardy, Telow, Tupper, Vose, Walker, Weymouth, Willey.

ABSENT - Baker, Dellert, Dutremble, L.; Hanley, Higgins, Hillock, Kimball, Macomber, Mayo, McGowan, Racine, Reed, Stevens, P.; Stevenson, Whitcomb, Zirkilton, The Speaker.

Yes, 74; No, 58; Absent, 17; Vacant, 2; Paired, 0; Excused, 0.

74 having voted in the affirmative and 58 in the negative with 17 being absent and 2 vacant, the motion to indefinitely postpone did prevail. Sent up for concurrence.

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

Representative BOTT: Mr. Speaker, having voted on the prevailing side, I now move that we reconsider our action whereby this bill was indefinitely postponed and further wish that this item be tabled two legislative days.

Representative Wentworth of Wells requested a Division on the tabling motion.

The SPEAKER: The pending question before the House is the motion of Representative Bott of Orono that L.D. 482 be tabled two legislative days pending his motion that the House reconsider its action whereby the Bill and all its accompanying papers were indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

51 having voted in the affirmative and 77 in the negative, the motion to table two legislative days did not prevail.

The SPEAKER: The pending question before the House now is the motion of the Representative Bott of Orono that the House reconsider its action whereby L.D. 482 and all its accompanying papers were indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

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

ENACTOR

An Act to Provide Health Care Benefits to Uninsured Individuals (H.P. 1292) (L.D. 1770) (S. "A" S-151)

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

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

Representative WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: It is a rather difficult bill to have to follow, but I will give it my best shot. I hope that you will vote against enactment of this bill.

There is a saying that I understand was first originated in the halls of the United States Congress when people were discussing the enactment of hidden taxes, but it is a saying that I have heard frequently quoted here from my good friend from Mt. Desert, Representative Zirkilton. "If it looks like a duck, and it walks like a duck, and quacks like a duck, it is duck." I tell you that in L.D. 1770, there is a form of hidden taxation that resembles a duck. I will quote from the bill, it says, "A reserve fund shall be established to pay any expenses and claims above premium income. This reserve shall be funded by an assessment on all reserves of all hospitals in the state."

The purpose of L.D. 1770 is to establish the Maine High Risk Insurance Organization and to establish the Special Select Commission on Access to Health Care and, as I said, it is to be funded by a tax on hospitals, but it really is a hidden tax on insurers. The assessment on hospital revenues will be added to the financial responsibility requirement of hospitals and charged back to third-party payers and private pay patients. Depending upon the amount of the tax, it will be passed on to policy holders. For some employers and individuals, an additional premium might be just the amount to force them to drop coverage entirely. This situation, of course, would create just the opposite effect that the bill intends -- more people without insurance.

Furthermore, it is a regressive tax, a tax on insurers, which translates into increased premiums is a very regressive form of taxation. It has no relation to ability to pay. Policy holders are not charged premiums based on their ability to pay for the insurance. In fact, if an employer group has high claims experience, it will pay higher premiums no matter what its income compared to a wealthier, healthier employer group.

Proponents of this bill will tell you that this is just a limited pilot project and that is true enough, but it is setting an important precedent. In the bill there is a cap of 300 people, who will be allowed to participate in the program, and there is a cap of \$1.5 million in the hospital tax. But the sad truth is, the number of high risk individuals is going to rise. As the AIDS epidemic reaches Maine, the cost of treating AIDS victims will rise dramatically.

A recent article in the Bangor Daily News reported on the National Conference on AIDS. AIDS patients face a diagnosis to death, medical care costs of as high as \$94,000 each. We could have easily have 300 people in this plan whose health care costs exceed \$1.5 million. Are we going to expel these people from the plan? No, we will probably raise the cap, especially after the initial three year trial period.

I hope you will not pass this bill. We must find a better way to pay for health care of high risk people. We should not enact the taxation policy in this bill.

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

Representative RYDELL: Mr. Speaker, Ladies and Gentlemen of the House: I would urge enactment of this bill and I would like to explain why. L.D. 1770 is an Act to Provide Health Care Benefits to Uninsured Individuals and sets up a risk pool to do that in the State of Maine for a small group of people on a three year trial basis. Risk pools have become a popular state strategy for making comprehensive health insurance coverage available to a small subset of people who are now uninsured, people whose policies are cancelled or cannot buy insurance because they have existing health problems that make them a "poor risk." These pools are necessary because health insurance companies, both the non-profit and for-profit companies, have excluded these people from the policies that you and I are able to purchase. The reason we need these risk pools is because these people have been excluded. Twelve states have established risk pools. In fact Rhode Island and Minnesota in the mid-seventies, and Illinois in late 1986, and an additional thirteen states are considering risk pools this year. In fact, last year Congress considered mandating risk pools, but deferred because of the state initiatives that were already underway.

L.D. 1770 presents this pilot project with a sunset review in three years, and in addition to that, an annual budgetary review by the legislature. The risk pool will be administered by a private insurer, under a contract supervised by a board appointed by the Governor. That board will include representatives of consumers, commercial insurers, Blue Cross and Blue Shield, hospitals, and the Superintendent of Insurance. Yes, it is true that losses to the high risk pool will be covered by assessments on hospitals which are guaranteed in the legislation to be passed on to all payers, including Medicare, Medicaid, the insurers, self-insuring companies, and privately paying individuals. The reason that the method chosen was an assessment on hospitals was because there is federal legislation which prohibits us from regulating self-insurers, and an increasing number of people and employers in this state are choosing the self-insurance way.

We feel that risk pools, which allow people with high risks to purchase insurance and which any one of us at any moment or any member of our family might need, perhaps not now but at some time in the future, that that risk should be shared by all who currently have insurance.

The private insurer would be chosen by a process that would enable all who were interested in it to bid for that process. The premiums for the high risk policy will be limited to 150 percent of the average cost of the individual health policies. There is a small subsidy from the General Fund to subsidize those that could only afford the usual cost of an individual policy and not that extra added cost. If we think about it, this risk pool will enable people who do not now purchase health insurance, but who have health conditions requiring a good deal of in and out of hospital care, it will enable them to purchase health insurance policies. In other words to pay premiums on a monthly or quarterly basis just as you and I do, which means that, when their health conditions warrant some type of medical attention, that they will have the insurance to cover it. But during the period of time when they not are in need

of medical attention, they will be paying health insurance premiums that they are not now paying. They will be paying for their coverage just as we pay for our coverage. They will use it when they need to use it, and during the rest of the time, they will merely pay their premiums into the fund.

The bill also provides for a legislative study commission to continue to study access to health care. One of the things that we know in this state today is that certain groups have much more limited access to health care than do other groups. We need additional information on who those groups are, what types of care they have access to, and do not have access to, and how could we better improve our health delivery system to improve their access and to improve their overall health. What we also know about people with high risk conditions and because they do not have insurance, they very often wait until they are very sick or very much in need of health care before they seek that health care. They do not feel that they can afford to take some preventive steps which would cut down the future costs of their health care and enable them to keep their condition in better check and not to wait until they are very much in need of more expensive care.

The risk pool that will be established in L.D. 1770 is an important first step in providing health insurance coverage to the many individuals in our state who are not now covered due to their health conditions. The committee heard from many people with conditions such as diabetes, cerebral palsy, developmental disabilities, arthritis. They wrote letters to us, they came to the hearings, and they told us that they want an opportunity to be able to purchase insurance. This bill gives them that opportunity on a pilot basis. It will be monitored and thoroughly studied and it will be back in this legislature at the end of the three year period for discussion as to whether or not this is an appropriate mechanism or whether we need to look at other mechanisms.

This is not a state health insurance program, it is a private health insurance program with some assistance from the state. It builds on our current private health insurance system by allowing some people who are now excluded to become a part of that system.

I would urge your enactment of this very important bill.

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

Representative GARLAND: Mr. Speaker, Ladies and Gentlemen of the House: I would just reiterate what the Representative from Cape Elizabeth has stated. Her reasons to oppose this legislation are the same reasons which make it applicable to myself. This pool of insurance for high risk individuals would be funded by hospital assessment. What could possibly be the rationale for taxing hospitals for insurance for high risk individuals, when at the same time, hospitals are already providing the care for those who are uninsured. This tax on your local hospital will be charged back to private pay patients and to third-party payers. With these mandated benefits, both utilization of covered services and the price of insurance premiums, goes up. This increase in insurance premiums could possibly force more people to drop coverage, thus creating more uninsured individuals, which is contrary to what the bill intends. Is it right to select one industry to pay for society's problems instead of making the high risk pool a priority of the General Fund? I feel that it is our responsibility as good government to

assume this responsibility and not charge one economic sector with this job.

I hope that you will vote against enactment of this bill.

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

Representative SIMPSON: Mr. Speaker, I would like to pose a question through the Chair?

To the Representative from Cape Elizabeth — she suggested that there was a better way to pay for this and I would like to know if she would care to tell us what that is.

The SPEAKER: The Representative from Casco, Representative Simpson, has posed a question through the Chair to the Representative from Cape Elizabeth, Representative Webster, who may respond if she so desires.

The Chair recognizes that Representative.

Representative WEBSTER: Mr. Speaker, Men and Women of the House: I believe what I said was, until we find a better way to pay for this, we ought not to enact this law. As the Representative from Brunswick, Representative Rydell has said, there are other states who have enacted high risk insurance pools and they are at just the beginning stages of the experiment. I think we ought to wait and see what is the best funding mechanism before we tax hospitals to pay for it.

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

Representative HOLT: Mr. Speaker, Members of the House: I hope you will be kind enough to listen as I read a message to you from a family in my district. "As you can see in the enclosed letter from our insurance company, our thirteen year old daughter, Carol, has been denied certain benefits because she has cerebral palsy. Because my husband is self-employed, we do not have group benefits and so pay \$146.63 a month for our family. This seems like a lot when you consider that there is also a benefit exclusion tacked on too, but believe me, it is a relief that someone will even insure us at all. We have been turned down flat in the past by other insurance companies because of Carol's disability.

Please permit me to take up a few of your minutes to explain just what that benefit exclusion means to us. Carol, we are told, needs an operation to lengthen her heel cords but the insurance company will not pay for it and we sure cannot afford to pay out of our pocket, so we swallowed our pride and called some charity organizations. Pine Tree Society told me they have no funds available for operations and the same thing goes for the United Way and March of Dimes. At any rate, we are now waiting to hear from the Shriner's Hospital in Massachusetts. If they do accept Carol, she and I will be traveling down and staying for at least a week, leaving my hard working husband to care for our six and seven year old children.

Not only is this whole thing frustrating for us, it is also pretty frightening and degrading for Carol. For an insurance company to deny benefits because of physical disability, smacks of discrimination to me. With enough support by people like me and work by people in the legislature, this injustice may someday be corrected."

Last Friday, I stopped by to see the family on my way home. I found plucky Carol who just wants to walk like the rest of us. She is a fine young citizen and a very talented poet. She was getting ready for her school prom. The good news is that the Shriner's have accepted her for surgery. Last weekend, I had a call from her mother to tell me Carol had a message for the legislature if I had a

chance to deliver it. It is this, "My future in Maine is uncertain. Will I be able to stay here? Will I be able to get insurance after I turn 18? The situation, as it is, is unfair to me and to the taxpayers."

I hope you will support this very well thought out bill.

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

Representative SIMPSON: Mr. Speaker, Men and Women of the House: The question here then seems to be, who will pay for this program? The answer that we have to look at right now is, who is paying for it right now? Right now your towns are paying for it through the general assistance fund. Right now your hospitals are paying for it through their charity and bad debt fund. Right now your third-party payers are paying for this program. The person that is not paying for it is the person who is going to use it, and those people who can afford to pay for it are going to pay 150 percent. Those people who cannot are going to be funded to the tune of \$50,000 from the General Fund.

The argument that we are taxing the hospitals is inaccurate. The Hospital Association is not opposing this, and believe me, after sitting on the Human Resources Committee and listening to the problems the hospitals are talking about in terms of regulations of the Health Care Finance Commission, they have some very serious problems that this legislature is addressing and needs to address in the future.

I would ask you today to support this bill at enactment. We have a better system for helping these people who have no insurance. I think that we have that solution today.

I would also point out the difficulty, the extra financial burden, that we put on these families who can afford to buy this insurance, but who cannot obtain it because of their pre-existing condition. These people also have difficulty in getting mortgages, getting life insurance, puts a greater burden on their families.

We received a letter from a mother who feels her inability to get her health insurance is jeopardizing her whole family's financial situation — her daughter, her children, and her husband.

I would submit to you that this is a well worked out compromise. We put caps into it to make sure it would not be an extra burden on anyone. We put limits in it, we worked out a compromise. I cannot understand the intent of the arguments because they are just not based on the facts that we studied in committee.

Representative Martin of Eagle Lake requested a roll call vote.

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

Representative CURRAN: Mr. Speaker, Men and Women of the House: First, let me tell you that it pains me greatly to disagree with my stable mates who have spoken ahead of me, all good friends, all good people, people on the Minority Report — such good people, such good ducks really.

Nevertheless, ladies and gentlemen, I wish to convince you to support this bill. To begin with, it has had one of the largest number of testimonials of any of the eighty or so bills that came before the Banking and Insurance Committee this year. As a result of that, such a flood of information. Let me tell you first off, the first straw vote on this matter was five in favor, five opposed, and three undecided. So it is not easy, it was not easy then and it is not easy now for you. As a consequence of that and because of the enormous awareness of the

serious social need that the bill addresses and which you have heard tonight, it was drafted and redrafted several times for the committee, tuned and fine tuned several times as some bills need to be, until it took the form that you see before you tonight.

Simply put, if someone you know or someone in your family or you, or me, have such physical conditions or limitations as diabetes, multiple sclerosis, muscular dystrophy, heart disease, cancer, some of the other things that you have heard spoken about tonight, and cannot get health care benefits because of that, this bill gives you the right to purchase it, if you can afford up to 150 percent of the usual premiums. But at least it gives you the right to purchase it, which you may not have now and which may, under certain circumstances, be disastrous to you and to your family. It gives you that right to purchase it without spending your way into poverty in order to get under some of the subsidized coverages. If you cannot financially afford it as you have been told already, then you may apply to this plan for the insurance that you could not otherwise get.

If I am being overly dramatic, I think I need to be because there are some families in which this is very severely dramatized and you have already heard Representative Holt's story.

Please support this bill. I think you can see how critical it can be to some people who need it, how absolutely desolate and devastated your or your family could become without it.

Although the bill states that the reserve funds shall be funded by an assessment on revenues of the hospitals, as Representative Webster has pointed out to you, hospitals themselves which she has also pointed out to you, would generally be held financially unharmed. The expenses will be passed on to third-party payers, the usually accepted method to third-party payers, insurance companies. For the low income who qualify for the benefits, that is where the payment would come from.

This is a human resources bill. Let us not be mistaken about it -- a human resources bill. A significant need exists for it. The funding mechanism carefully balances the concepts of both public and private responsibility as it rightly should. It pays considerable attention to the concept of equity and is a practical approach to a very difficult problem. This does not go near the General Fund except in a comparatively small amount that you have heard mentioned. Nearly everyone that we talked with or to had an aversion to doing such a thing. That is why we have come up with this funding mechanism.

It has a cap of 300 people as you have heard tonight. It has a sunset provision as you have heard tonight. It has a management provision of a creation of a board of directors to be appointed by the Governor of the state. The bill will prevent many Maine families with severe medical needs from being driven into poverty. It deserves a chance and I urge you to vote for it.

There has been some talk about principle involved here. There has been some philosophical discussion about this. Now that is all well and good, we all live by our principles and our philosophies and rightly so, but when political tenants or principle or philosophy clash with realities that are critical to people and families, even to members of our own families, then, of course, we must do what is practical and good to do. I needn't tell you that.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: The statement made earlier that tax policy was being set in this bill kind of perked me up and I took the time to read the bill while the debate was going on. What is happening is there is a mechanism being used to underwrite an assigned risk pool which is very common in Maine law. In fact, all assigned risk pools are underwritten in one fashion and another by a fee being assessed on somebody.

The only thing that kind of bothers me -- for an example, on the workers' compensation assigned risk pool, the losses for the pool are underwritten by an assessment on insurance carriers. Maybe Representative Rydell explained this when she spoke earlier but I would like to know why the committee chose not to assess the other insurance carriers who are underwriting health insurance in this state and instead chose to make the assessment on hospitals.

The SPEAKER: The Representative from Old Town, Representative Cashman has posed a question through the Chair to the Representative from Brunswick, Representative Rydell, who may respond if she desires.

Representative RYDELL: Mr. Speaker, Ladies and Gentlemen of the House: Very simply, the assessment on hospitals will be a pass-through so that all third-party payers, including self-insurers and Medicare and Medicaid, will also be assessed. The problem with assessing only the insurance companies is that we are not able to regulate the self-insurers and at least five percent of Maine employers are self-insured for health insurance.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: This bill originally started last year when we had a bill dealing with AIDS out of the Human Resources Committee. We had a study last year, the study came out with a split report. Four or five of us on the report indicated that we would want this to be paid for by the General Fund and that was the recommendation that the majority of the committee on the risk pool came out with. The Minority Report wanted it paid by the insurance companies. I know where my bill went, it went down the tubes I think back in February when the bill was heard, although I still think that it should be paid for by the General Fund.

I would hope that we would realize, as Representative Curran and Representative Holt have indicated, this is a major problem. Last year, the committee studied this problem. We had many meetings and we really need to take a look at risk pools. There are people out there and it really came to my mind because one of our dear colleagues, who is no longer with us, used to go running with me every Monday, Wednesday and Friday mornings at Lifeline in Portland. The reason Representative Connolly went running was because Representative Connolly, as most of us know, had open heart surgery back in 1982 and 1983 and he was in the heartline program. I was in the Run for the Life program that is like the one around here. In Portland, they call it Lifeline.

I realized that many of those people, and there were many, many, many, of those people who were, like Representative Connolly, very young. Representative Connolly was lucky because Representative Connolly was in a group, and therefore, could get insurance. They had to take him even with the open heart surgery. I am sure there were many of those people who were 40 and under because when people think of open heart surgery, they think people are in their late 50's and 60's, but there were a lot of those people who were younger, who were in that Heartline program and needed to be in that Heartline program,

ladies and gentlemen, just to live. It occurred to me that those people that we need to look at, along with others, such as the AIDS question, which was brought up last year. But there are many young people out there who cannot get insurance and, although my preference would have been to go with the General Fund, I think we need to look at this and we need to pass this now.

It also concerns me, being the Chairman of the Human Resources Committee, that it is dealing with the hospitals. I can assure you that not one hospital will suffer with this because it will be an automatic pass-through, because it will fall into the unforeseen events category in the McFitz statutes that will say that, because the legislature did this, it will automatically be a pass-through. The emphasis is why we are going through the insurance companies and I think it is important to understand that. Under federal law, we cannot tax self-insured people.

We found in our study last year that more and more companies were going self-insured. That is one of the reasons why we backed off from going with the insurance companies straight out and try to go with the General Fund because we thought that everybody would share in this. But if we go with what the bill calls for now, which is not the General Fund, but goes through the pass-through, then we would be getting those people who are self-insured.

If you look at the federal statutes dealing with people who have to have insurance -- in other words, when the federal law went through last year and it said that if you leave a company, you can stay on -- I think this legislature had the same law where we allowed people to stay on the group insurance and some of the people who would be the most adversely affected would be people who would be in the self-insured group. I really feel that one way to get those people, who are the self-insured group, is to go through the pass-through. I want to assure you though, it will not hurt one hospital in this state. It is an automatic pass-through, they will automatically get their money from the insurance companies and they will automatically send it on to the risk pool. It won't affect them one bit. So although I would have rather seen this bill go through with General Fund, I would hope that we would pass this today because it is, ladies and gentlemen, a real serious problem.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I was one of the few on the committee that had some big problems with this when it first came up but I realized that we had some people out there that needed some assistance, needed some help. I thought that probably the best way to take care of this was through General Fund. After taking some time and working with the committee, I realized that this pilot program may bring this to a larger scope as times goes on and that we may really need the money from the General Fund as it goes.

I hate to repeat everything that was said but we are talking about a program of 300 people, a three year sunset, we are talking about 42 hospitals in the State of Maine that is going to participate in this probably, at a cost of .0015 which is a very small amount and I believe the cost itself would be going back to us as the insured public.

We are talking about the saving of money, we are talking about general assistance to the municipalities and, in the first year alone, we could save about \$159,000 in our municipalities and, in the second year, about \$200,000.

I hope we all vote for the Majority Report.

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

Representative BOTT: Mr. Speaker, Men and Women of the House: The good gentlewoman from Cape Elizabeth pointed out that this bill is a tax on the hospitals. The Representative from Bangor pointed out that this could very well cause individuals to drop insurance. This is not an easy issue to get up and oppose, having listened to the testimony that we had before the committee. Speaking as one Representative, I feel that this is an inappropriate way to address this problem. I think it is most appropriately addressed, as the Representative from Portland said, through the General Fund.

I feel that this bill has a real potential to put the state in serious financial trouble down the road. I say that because individuals who contract the AIDS virus would be eligible under this program and I don't believe that the potential health effects of that epidemic have really come to light yet and so, having been around here long enough to know that once a program starts, it is extremely hard to stop. I feel that this is an area where it could be potential quicksand for the state in that it could seriously put us in a bad financial situation, a situation that would perhaps be most best addressed through the flexibility of General Fund appropriations. So, really the best way to avoid stepping in quicksand on this is to know the ground that you are treading on. I don't believe that we fully comprehend the area that we are attempting to head towards. We have already passed one other bill this session that I feel is a step toward gathering more data on this problem. I would strongly urge you to support the "Ought Not to Pass" Report and oppose this legislation.

Again, I just want to point out that the members of the committee who opposed this are not people that want to turn our backs on the problem. We merely want to make sure that we know exactly what we are getting into before we make the commitment and we also believe that there are better ways to address this problem, ways that are more flexible and won't lock us into a policy approach down the road.

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

Representative SIMPSON: Mr. Speaker, Ladies and Gentlemen of the House: One quick point. If a person is well enough to be able to afford this insurance right now and we do not pass this program, once again, if they come down with a serious illness and they start to accumulate high medical bills, they will become indigent and then they will be eligible for medicaid and the state will pay for it one way or the other.

I would also like to point out the benefits of having health insurance, the peace of mind, the better health care that one would practice by going for checkups and knowing that one can afford a certain type of preventive treatment so, once again, I ask you to support this bill.

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

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

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

Representative BOTT: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, the Representative from Casco has pointed out that these costs would be paid for and also would be borne by the hospitals and by the state. My only point is that I really don't feel that the state should get into the insurance business in this area until we know the full scope of the liability. There is a potential out there for being in a very serious financial shape if we have a serious outbreak of the AIDS virus, like some people are talking about. If that becomes necessary, we are going to pay for it, sure, but I believe that we need the flexibility of paying for it out of the General Fund rather than lock us into the insurance liability question that could handicap our ability to meet those needs in other areas and other needs of state government.

The proponents are going to get up and say, this is only limited to 300 individuals. How many people can stand here in all seriousness today and say that, down the road, we are going to terminate this program, we are going to turn our backs on those 300 individuals or other individuals that would fall into the same category who need assistance later. I don't believe that that is the nature of the game here.

Again, I would urge that you oppose this legislation.

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

ROLL CALL NO. 133

YEA - Aliberti, Allen, Anthony, Baker, Bost, Boutilier, Brown, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Crowley, Curran, Diamond, Dore, Duffy, Erwin, P.; Farnum, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Hale, Handy, Hichborn, Hickey, Hoglund, Holt, Hussey, Jackson, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lisnik, MacBride, Mahany, Manning, Martin, H.; McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Gara, Paradis, J.; Paradis, P.; Paul, Perry, Pines, Pouliot, Priest, Rand, Reeves, Rice, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Scarpino, Sheltra, Simpson, Smith, Soucy, Swazey, Tammaro, Tardy, Taylor, Telow, Thistle, Tracy, Vose, Walker, Warren, The Speaker.

NAY - Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Bragg, Callahan, Davis, Dellert, Dexter, Farren, Foss, Foster, Garland, Harper, Hepburn, Holloway, Ingraham, Lawrence, Lebowitz, Look, Lord, Marsano, Matthews, K.; McPherson, Murphy, T.; Nicholson, Norton, Paradis, E.; Parent, Reed, Salsbury, Seavey, Sherburne, Small, Stanley, Stevens, A.; Strout, B.; Strout, D.; Tupper, Webster, M.; Wentworth, Weymouth, Willey.

ABSENT - Cote, Dutremble, L.; Hanley, Higgins, Hillock, Kimball, Macomber, Mayo, McGowan, Racine, Stevens, P.; Stevenson, Whitcomb, Zirkilton.

Yes, 90; No, 45; Absent, 14; Vacant, 2; Paired, 0; Excused, 0.

90 having voted in the affirmative and 45 in the negative with 14 being absent and 2 vacant, 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: RESOLVE, to Establish the Juvenile Corrections Planning Commission (H.P. 1302) (L.D. 1781) (H. "A" H-283) which was tabled earlier in the day and later today assigned pending final passage.

On motion of Representative Anthony of South Portland, under suspension of the rules, the House

reconsidered its action whereby L.D. 1781 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby House Amendment "A" (H. "A" H283) was adopted.

On motion of the same Representative, House Amendment "A" was indefinitely postponed.

The same Representative offered House Amendment "B" (H-319) and moved its adoption.

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

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

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

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

PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE

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

Bill "An Act to Create an Additional Section to the Maine Code of Military Justice Penalizing False Official Statements" (H.P. 1329) (L.D. 1813) (Presented by Representative LEBOWITZ of Bangor) (Cosponsors: Representative HANLEY of Paris, Senators BALDACCI of Penobscot and DILLENBACK of Cumberland) (Governor's Bill)

(Committee on Aging, Retirement and Veterans was suggested)

Under suspension of the rules, without reference to any committee, the bill was read once and assigned for second reading later in today's session.

State and Local Government

Bill "An Act to Create a New Major Policy-influencing Position for the Department of Defense and Veterans' Services, Namely, a New Civilian Position of Deputy Commissioner" (H.P. 1330) (L.D. 1814) (Presented by Representative PARADIS of Old Town) (Cosponsors: Senator PERKINS of Hancock, Representatives PRIEST of Brunswick and DUTREMBLE of Biddeford) (Governor's Bill)

(Committee on Aging, Retirement and Veterans suggested)

On motion of Representative Carroll of Gray was referred to the Committee on State and Local Government, ordered printed and sent up for concurrence.

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative PARADIS from the Committee on Judiciary on Bill "An Act Permitting Private Mediation for Divorcing Couples" (H.P. 346) (L.D. 445) reporting "Leave to Withdraw"

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

Ought to Pass in New Draft

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Establish Municipal Cost

Components for Services to be Rendered in Fiscal Year 1987-88" (Emergency) (H.P. 818) (L.D. 1103) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1328) (L.D. 1812)

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

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

CONSENT CALENDAR

First Day

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

(S.P. 517) (L.D. 1560) Bill "An Act to Recodify the First-lien Real Estate Secured Lending Provisions Relating to Nonbanks in the Maine Consumer Credit Code" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-163)

(H.P. 1062) (L.D. 1445) Bill "An Act to Facilitate Access to In-home Services" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-308)

(H.P. 313) (L.D. 412) Bill "An Act to Promote Equity in Determining Medicaid Eligibility for Institutionalized Care" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-307)

(H.P. 802) (L.D. 1076) RESOLVE, to Provide a One-year Moratorium on School-based Health Clinics and Establish the Commission to Study Clinics in Public Schools which provide Counseling and Services Relating to Pregnancy Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-306)

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

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

SENATE PAPERS

The following Communication:

The Senate of Maine
Augusta

June 11, 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 Education, the Governor's nomination of Harrison L. Richardson of Falmouth for reappointment to the University of Maine, Board of Trustees.

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Education, the Governor's nomination of George W. Wood, III of Bangor for appointment to the University of Maine, Board of Trustees.

George W. Wood, III is replacing Barbara Sanford.

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Education, the Governor's nomination of Robert H.

Foster of Machias for appointment to the University of Maine, Board of Trustees.

Robert H. Foster is replacing Severin Beliveau.

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Education, the Governor's nomination of Patricia Collins of Caribou for appointment to the University of Maine, Board of Trustees.

Patricia Collins is replacing Patricia Schroth.

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

Was read and ordered placed on file.

The following Communication:

The Senate of Maine
Augusta
June 11, 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 Aging, Retirement and Veterans, the Governor's nomination of Grover B. MacLaughlin of Orono for appointment to the Maine State Retirement System Board of Trustees.

Grover B. MacLaughlin is replacing Nathan Watson.
Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

The Senate of Maine
Augusta
June 11, 1987

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

Please be advised that the Senate today Adhered to its former action whereby it accepted the Ought Not to Pass Report on the 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).

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

Was read and ordered placed on file.

Non-Concurrent Matter

Bill "An Act to Create an Additional Section to the Maine Code of Military Justice to Encompass General Disciplinary Offenses Similar to the United States Code of Military Justice" (H.P. 1320) (L.D. 1804) which was passed to be engrossed in the House on June 10, 1987.

Came from the Senate indefinitely postponed in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Joint Order Relative to Studying the Air Quality in State Buildings (H.P. 734) which was read and passed in the House on March 31, 1987.

Came from the Senate indefinitely postponed in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

An Act to Provide Substance Abuse Treatment to Youths at the Maine Youth Center (H.P. 1220) (L.D. 1663) which was passed to be enacted in the House on June 1, 1987.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Laws" (Emergency) (S.P. 590) (L.D. 1743) which was Passed to be Engrossed as amended by House Amendment "A" (H-291) in the House on June 10, 1987.

Came from the Senate Passed to be Engrossed as amended by Senate Amendment "A" (S-166) in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

An Act to Provide Substance Abuse Prevention, Education and Treatment Services for County Jail Inmates and their Families (H.P. 1218) (L.D. 1661) which was Passed to be Enacted in the House on May 29, 1987.

Came from the Senate with the Bill and Accompanying Papers Indefinitely Postponed in non-concurrence.

The House voted to recede and concur.

COMMUNICATIONS

The following Communication:

STATE OF MAINE

113TH LEGISLATURE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

June 9, 1987

Speaker John L. Martin
President Charles Pray
State House
Augusta, ME 04333

Dear Speaker Martin and President Pray:

The Joint Standing Committee on Energy and Natural Resources is pleased to submit its report to the Legislature pursuant to P.L. 1985 c. 137. This summary report accompanies legislation previously submitted by the committee. With that legislation (LD 1499 and LD 1365) now under serious discussion by the Legislature, the committee hopes that the enclosed report will assist the Legislature in its deliberations.

The State faces a serious challenge in managing its solid waste. The committee has worked with a broad range of interests to develop a sound framework for Maine's solid waste management policy. We enthusiastically recommend the committee's unanimous legislative report.

Sincerely
S/Sen. Ronald Usher, Chair
S/Rep. Michael Michaud, Chair

Was read and with accompanying report ordered placed on file in concurrence.

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Create Housing Options for Homeless Mentally Ill People" (H.P. 610) (L.D. 828) reporting "Leave to Withdraw"

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

Ought to Pass in New Draft

Representative CONLEY from the Committee on Judiciary on Bill "An Act to Amend the Maine Juvenile Code" (H.P. 1163) (L.D. 1589) reporting "Ought to Pass" in New Draft (H.P. 1331) (L.D. 1816)

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.

CONSENT CALENDAR

First Day

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

(H.P. 415) (L.D. 549) Bill "An Act to Make Allocations for the Administrative Expenses of the Bureau of Alcoholic Beverages, Department of Finance, for the Fiscal Years Ending June 30, 1988, and June 30, 1989" (Emergency) Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

Under suspension of the rules, Second Day Consent Calendar Notification was given, the House Paper was 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 items appearing on Supplement No. 13 were taken up out of order by unanimous consent:

SENATE PAPERS

Ought to Pass in New Draft

Report of the Committee on Banking and Insurance on Bill "An Act to Amend the Investment Provisions and Certain Related Sections of the Maine Insurance Code" (S.P. 243) (L.D. 675) reporting "Ought to Pass" in New Draft (S.P. 620) (L.D. 1821)

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 and passed to be engrossed in concurrence.

Ought to Pass in New Draft

Report of the Committee on Judiciary on Bill "An Act to Clarify the Conditions Under Which a Juvenile may be Detained" (S.P. 520) (L.D. 1572) reporting "Ought to Pass" in New Draft (S.P. 619) (L.D. 1820)

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 and passed to be engrossed in concurrence.

Ought to Pass in New Draft

Report of the Committee on State and Local Government on Bill "An Act to Provide a Mechanism for Allocations of the State Ceiling on Private-activity Bonds" (Emergency) (S.P. 444) (L.D. 1358) reporting "Ought to Pass" in New Draft (Emergency) (S.P. 618) (L.D. 1819)

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 and passed to be engrossed in concurrence.

Ought to Pass in New Draft/New Title

Report of the Committee on Economic Development on Bill "An Act to Provide Disaster Assistance for Home Mortgagors" (S.P. 168) (L.D. 472) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Provide for the Compilation of Data and Information Relating to Reasons for Residential Mortgage Foreclosures in Maine" (Emergency) (S.P. 616) (L.D. 1817).

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 and passed to be engrossed in concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 447) (L.D. 1361) RESOLVE, to Establish the Joint Select Committee to Study the Benefits and Costs Related to Permanent Impairment Injuries under the Workers' Compensation Act Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-173)

(S.P. 386) (L.D. 1163) Bill "An Act to Provide for Renewal of Auto Registration and Inspection Sticker at the Same Time" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-174)

(S.P. 417) (L.D. 1275) Bill "An Act to Enhance the Maine Job Training Partnership Program" Committee on Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (S-175)

Under suspension of the rules, Second Day Consent Calendar Notification was given, the Senate Papers were passed to be engrossed as amended in concurrence.

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

PASSED TO BE ENGROSSED

WITHOUT REFERENCE TO COMMITTEE

Bill "An Act to Expand Employment Opportunities for Minors under the Age of 16 Years" (Emergency) (H.P. 1334) (L.D. 1824) (Presented by Representative GWADOSKY of Fairfield) (Cosponsor: Representative

JACQUES of Waterville) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Committee on Labor was suggested.)

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

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

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

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" on 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)

Signed:

Senators:

KANY of Kennebec
ESTES of York
DILLENBACK of Cumberland
PRIEST of Brunswick
HARPER of Lincoln
TUPPER of Orrington
PAUL of Sanford
MURPHY of Berwick
PERRY of Mexico
MARTIN of Van Buren
JALBERT of Lisbon

Representatives:

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

Signed:

Representatives:

STEVENSON of Unity
STEVENS of Sabattus

Reports were read.

On motion of Representative Priest of Brunswick, 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, passed to be engrossed and sent up for concurrence.

On motion of Representative Smith of Island Falls, the House reconsidered its action whereby L.D. 1789 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-309) and moved its adoption.

House Amendment "A" (H-309) was read by the Clerk.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I offer this amendment to address the one store in Gardiner. It will give them 120 days to allow an agency store to operate at which time they should have a state store in operation and return those people that were formerly employed to work in that store. It will address this store only, not a statewide issue.

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

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: I move the indefinite postponement of this amendment.

Basically, what the amendment would do, obviously, is limit the provisions of the bill to the Gardiner store. The bill, however, if it is well executed and we think it is, provides for a procedure for any state liquor store which has been closed because of a natural disaster to be replaced temporarily, that is for a maximum of 120 days by a temporary agency store while the commission is getting the state liquor store back on its feet.

It seems to me to have this bill apply only to the Gardiner store would put us in a difficult position should we have flooding, for example, next year. The legislature would not be here to take care of a store which is closed because of a natural disaster perhaps in another part of the state.

The bill itself provides for adequate public notice and a complete hearing process. I think that equal treatment would demand that it apply to every store similarly situated to Gardiner. I would ask you to support the indefinite postponement motion.

Representative Smith of Island Falls requested a roll call vote.

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 pending question before the House is the motion of Representative Priest of Brunswick that House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 134

YEA - Allen, Armstrong, Baker, Bost, Bott, Boutilier, Carroll, Carter, Cashman, Conley, Cote, Crowley, Curran, Dexter, Diamond, Duffy, Erwin, P.; Hale, Hoglund, Holloway, Holt, Ingraham, Jacques, Ketover, Kilkelly, Lacroix, LaPointe, Lisnik, Mahany, Manning, Martin, H.; Melendy, Moholland, Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Nicholson, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Paul, Priest, Rand, Rolde, Rotondi, Ruhlin, Sheltra, Soucy, Strout, B.; Swazey, Tamaro, Taylor, Thistle, Tracy, Vose, Walker, Warren, Willey.

NAY - Aliberti, Anderson, Anthony, Bailey, Begley, Bickford, Brown, Callahan, Clark, H.; Clark, M.; Coles, Davis, Dore, Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Handy, Hepburn, Hichborn, Hussey, Jackson, Joseph, Lawrence, Lebowitz, Look, Lord, MacBride, Marsano, McHenry, McPherson, Michaud, Mills, Mitchell, Murphy, E.; Norton, Nutting, Parent, Pines, Pouliot, Reed, Reeves, Rice, Ridley, Rydell, Salsbury, Scarpino, Seavey, Sherburne, Simpson, Small, Smith, Stanley, Stevens, A.; Strout, D.; Tardy, Telow, Tupper, Webster, M.; Wentworth, Weymouth.

ABSENT - Bragg, Chonko, Dellert, Dutremble, L.; Gurney, Gwadosky, Hanley, Harper, Hickey, Higgins, Hillock, Jalbert, Kimball, Macomber, Matthews, K.; Mayo, McGowan, McSweeney, Perry, Racine, Richard, Stevens, P.; Stevenson, Whitcomb, Zirnkilton, The Speaker.

Yes, 59; No, 64; Absent, 26; Vacant, 2; Paired, 0; Excused, 0.

59 having voted in the affirmative and 64 in the negative with 26 being absent and 2 vacant, the motion to indefinitely postpone did not prevail.

Subsequently, House Amendment "A" was adopted.

Representative Strout of Corinth moved that the bill and all accompanying papers be indefinitely postponed.

Representative Weymouth of Gardiner requested a roll call vote on the motion to indefinitely postpone.

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 Priest.

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: I confess it is puzzling as to why this bill should be indefinitely postponed. We have heard no arguments in favor of indefinitely postponing it. I would remind you that this does not set up a new liquor store but only sets up a temporary agency store to replace one which was closed because of a flood, a natural disaster. We are giving the people of Gardiner, in this case due to the amendment you have adopted, no more than that which they had enjoyed before the flood. I would ask you not to support the motion to indefinitely postpone.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I had a soft spot come to my heart and I thought of these people driving these ten miles so I offered the amendment for that one purpose. Right now, I don't know which way I will vote. I have no problem with killing this bill, no problem at all. I thought if the people in Gardiner really wanted this store and it was going to save maybe a little traffic in the Augusta area, then I could support this type of amendment. But I wanted to limit it only to the Gardiner area. Giving Mr. Marcotte free hand to decide what is a disaster, or a couple of bottles might pop in the store or whatever, it bothers me. If we restrict it to the Gardiner store, knowing that there was going to be another state store there with state employees, then I have no problem. As I said, I really don't care how you vote on this one as long as we could have the amendment in place.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Mexico, Representative Perry.

Representative PERRY: Mr. Speaker, Ladies and Gentlemen of the House: What are we doing? Patching it up or putting in a bill to address the question if it occurs in the future? Apparently this amendment is just a patch job and that is the only thing that I have to say about it.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: As I said before, I think we are addressing the issue today. As I said before, knowing Mr. Marcotte, if a couple of bottles popped in some store, there might be a disaster and, at that time, we might have an agency store instead of a state store.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I could have gone with this bill either way. After the last vote was taken, this

House seemed to not want to give Mr. Marcotte that power to do that in case of a natural disaster. Then when I was approached with the amendment, I said fine, that seems reasonable, I will go with the amendment. Well now, I wish that I had not gone with that amendment and I hope you do not vote to indefinitely postpone.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is the motion of the Representative from Corinth, Representative Strout, that L.D. 1789 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 135

YEA - Baker, Begley, Chonko, Clark, M.; Cote, Dore, Gould, R. A.; Hepburn, Look, Marsano, McHenry, Richard, Rydell, Scarpino, Sherburne, Strout, D.; Tardy, Thistle.

NAY - Aliberti, Allen, Anderson, Anthony, Armstrong, Bailey, Bickford, Bost, Bott, Boutilier, Brown, Callahan, Carroll, Carter, Cashman, Clark, H.; Coles, Conley, Crowley, Curran, Davis, Dellert, Dexter, Diamond, Duffy, Erwin, P.; Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hale, Handy, Harper, Hichborn, Hickey, Hoglund, Holloway, Holt, Hussey, Ingraham, Jackson, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Mahany, Manning, Martin, H.; Matthews, K.; McPherson, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Perry, Pines, Pouliot, Priest, Rand, Reed, Reeves, Rice, Ridley, Rolde, Rotondi, Ruhlin, Salsbury, Seavey, Sheltra, Simpson, Small, Smith, Soucy, Stanley, Stevens, A.; Strout, B.; Swazey, Tamaro, Taylor, Telow, Tracy, Tupper, Vose, Walker, Warren, Webster, M.; Wentworth, Weymouth, Willey.

ABSENT - Bragg, Dutremble, L.; Gurney, Gwadosky, Hanley, Higgins, Hillock, Kimball, Macomber, Mayo, McGowan, Racine, Stevens, P.; Stevenson, Whitcomb, Zirnkilton, The Speaker.

Yes, 18; No, 114; Absent, 17; Vacant, 2; Paired, 0; Excused, 0.

18 having voted in the affirmative and 114 in the negative with 17 being absent and 2 vacant, the motion to indefinitely postpone did not prevail.

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

By unanimous consent, 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 Judiciary on Bill "An Act Relating to Aggravated Trafficking or Furnishing Scheduled Drugs under the Maine Criminal Code" (H.P. 1051) (L.D. 1414) reporting "Ought to Pass" in New Draft (H.P. 1332) (L.D. 1822)

Signed:

Senator: BLACK of Cumberland

Representatives: PARADIS of Augusta

VOSE of Eastport

MARSANO of Belfast

HANLEY of Paris

COTE of Auburn

MacBRIDE of Presque Isle

BEGLEY of Waldoboro

Minority Report of the same Committee reporting "Ought to Pass" in New Draft (H.P. 1333) (L.D. 1823) on same Bill.

Signed:

Senators: BRANNIGAN of Cumberland
GAUVREAU of Androscoggin

Representatives: THISTLE of Dover-Foxcroft
CONLEY of Portland
WARREN of Scarborough

Reports were read.

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

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

Mr. Speaker, Men and Women of the House: I just would like to briefly explain this bill to you since it is a major piece of legislation. It is a Governor's drug trafficking bill. It is an important piece of legislation for this committee to report to the House.

First, let me just say that it is the fifth Divided Report and the last to come out of the Committee on Judiciary. We have reported to this House approximately 150 bills and 145 of them were Unanimous Reports. I know that all of you who have served on a committee think that your committee has done an excellent job and they have. I feel rather protective of my committee. I think that no one could serve on a better committee and I have been really honored by all the members to have been their Chairman and who have worked so closely with all of them. Five reports out of 150 bills is truly, for our committee, truly something outstanding.

Secondly, I thought that I had to sort of redeem my conservative credentials, having voted somewhat on the liberal side on a few issues in the last few weeks in this chamber. I wanted all of my friends here to know that I had not changed my stripes, that I was indeed a moderate, conservative Democrat. I thought that by explaining this bill to you, you would concur that the Representative from Augusta, Representative Paradis, had not had a high fever or misplaced his credentials in coming into the chamber on some of the mornings and presenting some of the former bills that I had to.

Let me say first, briefly, just describing the bill -- both reports are nearly unanimous. They differ only in the last section. So let me explain the first few sections of the bill.

Currently, there is a presumption in Title 17A, "that a person is guilty of drug trafficking if he or she possesses two or more pounds of marijuana." There is no presumption of trafficking in other more dangerous substances. Section 1 of the bill changes that to include additional presumptions of trafficking "when a person possesses more than 28 grams of cocaine or 28 grams of heroine." These important corrections will help the drug enforcement battle. Without the presumptions under current law, possession of any amount of cocaine is a Class D crime, and possession of heroine is a Class C crime. Inclusion of the presumptions will raise the possession of either in the given amounts to a Class B crime.

Section 3 of the bill expands the definition of aggravated trafficking to include "trafficking in or furnishing to a child under 18 years of age." A person who has previously been convicted of any drug felony under state law, federal law, or another state's statutes, would also be "guilty of aggravated trafficking, or furnishing" if he or she "violated Sections 1103, 1104, 1106 of Title 17A." I will say

more about the specific minimum sentences at the end of my remarks, Mr. Speaker.

Section 4 is similar to Section 1 of the bill except it refers to "furnishing" scheduled drugs, not trafficking, but furnishing. This Section provides presumptions of possession for weights of cocaine and heroine which are more than customarily considered, consistent with possession, for personal use and consumption. Again, this change closes an important loophole in our drug law that will aid our enforcement efforts.

Section 6 of the bill makes it a crime to unlawfully supply hypodermic apparatuses, or "to knowingly traffick in or furnish a hypodermic apparatus." The Title of 1110 is amended to reflect the inclusion of unlawfully supplying syringes. The crime is a Class C felony. This section addresses two areas of concern. The first is that it has important drug enforcement ramifications. Secondly, it also has public health ramifications because hypodermic syringes are rapidly becoming an important source of the spread of AIDS.

Section 7 is where the Majority Report and Minority Report differ. Let me read to you what Section 7 is: "Notwithstanding any other provision of this code for a person convicted of violating Section 1105, the minimum sentence of imprisonment, which shall not be suspended, shall be as follows: When the sentencing class is Class A, the minimum term of imprisonment shall be four years; when the sentencing class is Class B, the minimum term of imprisonment shall be two years; when the sentencing class is Class C, the minimum term of imprisonment shall be one year."

What does this mean in layman terms? This section defines the crime of aggravated trafficking or furnishing scheduled drugs as "trafficking with, or furnishing to a child under 18 years of age," or "trafficking or furnishing after having been previously convicted of a drug felony." A second time offender.

The original bill called for a higher penalty, a Class B for trafficking and a Class C for furnishing. The committee report, which we are debating right now, lowers that one step. It prescribes a Class C for trafficking and a Class B for furnishing. We thought that was more consistent and the administration accepted our proposal.

I think that the Majority Report is a very responsible report. I don't have to tell you at this late hour what the problems are out there with drug abuse, drug trafficking and drug furnishing. This bill is a sincere attempt by both sides, the majority and minority, to put some real teeth into our law enforcement efforts. The Department of Public Safety drafted this bill and presented it to us. The federal, state, county, local law enforcement agencies testified in favor of the bill.

Our only difference between the Minority and Majority Reports is that we of the Majority prescribe the minimum sentences. We don't do it lightly, we do it for those who would sell or furnish drugs to our children and we do it for second time offenders. I don't have any sympathy whatsoever for those that furnish drugs to children. None. Maybe at a later date, when we see how this bill works, if it is enacted, we might want to put mandatory for first time offenders. But we are going to just put it on for first time offenders this time. For children, we make no exception, those that would furnish cocaine and heroine and other drugs covered under this code ought to go to prison for a determinate amount of time. They shouldn't be able to plea bargain and get away with no prison time whatsoever.

I respect this bill, I respect the differences that can arise under such a report. But we know that we are not necessarily winning the battle over drugs. We know that there are so many dealers out there and so much trafficking that it will take a more concerned effort on the part of the law enforcement agencies. They have asked us for more teeth to do the battle with.

So I hope, Mr. Speaker, members of the House, that as we vote tonight, we will vote to accept the Majority "Ought to Pass" Report.

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

Representative CONLEY: Mr. Speaker, Ladies and Gentlemen of the House: With all due respect to my Chair, whom I have not differed with much this session, I must differ with him on this particular report and ask that we not accept the Majority Report on this bill. It is fair to say that we worked very hard on this bill, I would say two or three days of committee work went into all of this bill. We worked hard at the things that we ended up agreeing on. There was much give and take among all of the committee members. It was a Governor's bill, we had the Commissioner from Public Safety who guided us through this bill and stayed with the committee for all of these days bringing in experts from all over the place.

In the end, the only thing we differed on was the mandatory sentencing element on this bill. Believe me, this bill, on the whole, gets very, very tough on drug offenders, dealers and drug furnishers. The mandatory sentencing portion of this bill though is something, which I and other members of the committee who signed the Minority, feel so strongly about we feel that we should bring these differences to the floor for everybody to have a look at.

Everybody wants to get tough on drugs, to get tough on drug dealers. There is no question about that, I couldn't agree with my chairman more on that particular issue. But what we are doing here, we are tying the hands of our judges, people who this legislature confirm, people who are appointed by the person who sits on the second floor. This bill is an erosion of the independence which our judiciary has. We are going into that very sacred area that a judge, who we confirm, where he or she makes the decisions.

One of the things that really bothers me about the bill is that there was no evidence presented to us that our judges here in Maine are abusing their discretion in the sentencing area for drug offenders, drug dealers, or drug furnishers -- not a shred of evidence.

You know, like I do, that we have a judge who sits on the First Federal District Court here in Maine by the name of Judge Carter who we are lucky enough to have on our State Supreme Court. He is one of the most feared judges probably in the entire country when it comes to drugs. He does not have mandatory sentencing laws which pertain to him. I will tell you he is not afraid to give out a harsh sentence. I have represented many people who have gone before him with great fear and trepidation and they found out there was reason to feel that way. However, he does need, just like our judges need, the ability to have discretion in those rare cases that involve drug dealers, to give them less time than perhaps he would give in 99 percent of the other cases.

I want to give you a couple of examples of what this bill would do. You can throw out drug pushers and everybody says well, we ought to get them. What this bill would do, if you had an 18 year old boy or girl who gave one joint of marijuana to his 17 year

old brother or sister, the judge, if that person was convicted, found guilty by a jury, would have no discretion in the sentencing area. That person would have to go to jail for one year -- nothing more to say about it. The judge could do nothing. If that same person furnished cocaine to his or her sister, would go to jail for two years, and if that same person sold cocaine to his or her brother or sister, that person would go to jail for four years, none of which could be suspended.

I know that we send people to jail for 48 hours minimum sentencing, and we have given our judges direction in that area, I guess because they were not doing the job that we thought they should do, but there is a big difference between 48 hours, two days, and two years or four years -- a very big difference.

I think that this House should think very seriously about this before we give away what is really our authority because we do have a lot to say about who goes to sit on these benches, by putting it into law that these judges will not be able to use their discretion and decide what kind of sentence somebody is going to get.

These judges live in our communities, they reflect our community values and I believe, since there was no evidence presented to the contrary, they have been doing their job, and we don't have to tell them what kind of sentences they should be handing out. If we set sentences for this, why don't we set sentences for burglary, why don't we set sentences for robbery? We don't do it and the reason we don't do it is because we believe in our judges. Let's not send them the wrong message. Let's not tell them that we do not trust them and what they have been doing.

As a final note, we did not hear from anybody from the Department of Corrections regarding this bill. This bill is going to have a serious impact on the prison population in this state. I don't know enough about that area and what is going on out there regarding the overcrowding in these facilities but I would certainly like to hear what their position would be regarding the impact of this bill on the correctional system. For all of those reasons and with great respect for the Committee Chair and the committee in general because we worked very hard on this, I would ask that you go against the Majority Report.

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

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I am not a lawyer, but I am a father, I am a grandfather. I have two lovely daughters and five grandchildren -- five granddaughters as a matter of fact. I am scared to death of drugs. I hate drugs, I hate anybody that pushes it, I hate anybody that takes it. It is just something that I am scared to death of.

The Majority Report does one thing different than what the gentleman said. It simply says that, if you are going to fool around with drugs one way or the other, you are going to get nailed. Now if my red neck is showing tonight, perhaps that is all right because that is the way I feel about it. If you are going to fool around with drugs, you may as well be prepared for the penalty and it should be mandatory.

I don't care. If my older daughter sold drugs to my younger daughter, boy I'll tell you something right now, that wouldn't bother me one little iota for her to get punished and put away a little bit. That would teach her something. That is the school I am from. I feel very strongly about it. As far as I am concerned, I think I am on the right report and

that is the way I am going to stay and I hope you will go with me on it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Dover-Foxcroft, Representative Thistle.

Representative THISTLE: Mr. Speaker, Ladies and Gentlemen of the House: Before we go much further, I would like to take issue with one thing that my distinguished Chairman, Representative Paradis, indicated or rather implied. There is really no one on our committee on either side who is soft on drugs or drug dealers. We do have a difference of opinion. I believe we need to provide the courts with the discretion that they have used so well to date. I believe Representative Conley is correct when he says that people are being put away now and they are being sentenced to stiff terms of imprisonment, and correctly so. My objection to this is that it takes a piecemeal approach to the problem, and though we all wish to solve the problem, I think we are better advised if we do it in a more thorough fashion.

I was glad to hear Representative Conley indicate that no one had come to us from the Department of Corrections to speak to this bill. There was a good reason for that, it seems to me. I don't know if any of you have been to our prisons in the State of Maine. I sit, as you know, on the Joint Select Committee on Corrections and have had the distinct pleasure to visit every one of our institutions. I am reminded of those visits that took place this winter. The situations in those prisons are appalling. Overcrowding is not just the figment of someone's imagination. Each day when Commissioner Allen comes to work, his foremost problem is where does he put the prisoner, where does he put the new prisoner? I believe we are poised on the brink of a very serious lawsuit, when our prison systems will be taken out of our control, and given over to the control of a judge. Threats have been made and that has been alluded to by members of various civil libertarian groups. This is just not idle talk. I would urge this body to take a thorough approach to this problem. Yes, we all want to be tough on drug dealers, drug offenders. I do as well as anyone else. I, too, have daughters who are at a ripe age to be affected by this problem. Society is overrun with it, but let's be reasonable.

The Joint Select Committee is undertaking a serious study. They will present their findings to this legislature next January. In that study, they are taking into consideration sentencing guidelines. They are taking into consideration the housing shortage in our correctional facilities; they are taking into consideration the courts and the wishes of the judges; they are taking into consideration sentencing alternatives, sentencing flexibility; and all of that needs to be taken into consideration.

It is wonderful to stand up and say, back home next November or the November following -- we were tough on drugs, we were tough on drug dealers, but it is a very serious problem to just say, let's put them in jail, and let's put them in jail for four years with no flexibility in the hands of the judges.

Within this session of the legislature, we opened up a new building at the Maine Correctional Center. It was intended to be an industries building, a crafts building, someplace for the prisoners to work. Before it was opened, it was dedicated to beds entirely. In the same institution, office space has been given over to beds for prisoners. Terrific, we want to put everyone behind bars. Terrific, we want to make those sentences as tough as we can. We should but we should look beyond that too. We should

look to our courts for some of the solutions, look to our corrections department, and if we really want to do it, we had better come up with another bond issue, because before the buildings were built for the one we just passed last November, there is not going to be enough bed space.

I say that we should just take a little moment to reflect on that, it will give us some time with the Joint Select Committee on Corrections to consider an overall view on what this legislature ought to do with things such as drug dealing and prison overcrowding.

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

Representative RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I think I have made this comment before, that probably I have spent more time in jails than anybody in this room and the reason I have is because it is my duty as a bail commissioner. I would just like to relate to you some of the experiences I have had or what I have observed. It seems too bad to me that the judges have to hand down the sentences as to whether a person goes to jail or they let him out on the streets by the overcrowding of the jails. I think that is deplorable. But yet this is being done, you cannot get them to admit it openly. I know that it is being done. I have seen a lot of the people come into the jail, get bailed out, we set the bail quite high on these individuals. There is a process we go through to determine what the bail is, the primary thing being that they will show up in court on the day that court is set. But in just a matter of a few hours, someone will show up with large sums of cash money to bail these people out. Then you will see a large barrage of high price lawyers that will go into the court room and a lot of them seem to be getting off. I have seen a lot of young individuals, people in the teens, that are brought in for the same charges.

I think that if we make a real effort to show the people and the people are behind us because they supported us on the bond issue the last time. They sent a real clear message to build more facilities by approving the bond issue. I think the Majority Report would send a real clear message out there that we mean business, that if you got caught fooling around with drugs -- and speaking of children, I have five children of my own, I have fifteen grandchildren. Is it any better or worse if one of them is selling something or giving something to his sister than if it is the neighbor across the street? It is wrong and it is dead wrong and I don't care who does it. I will be the first to stand up and say you should pay the penalty, pay your debt to society. We don't want drugs. I have seen the damage that they do. With some, there is no way that it can be repaired. I think that the Majority Report would put some teeth into this thing. I hope that you go along with it.

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

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I, too, am very proud of the Judiciary Committee and the work that we have done this year and the work that we have done on this bill. As has been mentioned by other members, we did work long and hard on it and I think it really is an excellent bill. It has been mentioned to you before, I do want to emphasize it again, the only thing that we differ on is the mandatory sentencing. Those on the Majority Report are asking for mandatory sentences only, only for people who sell drugs to

children under 18 and for repeat drug selling. I don't think that that really is asking too much of a mandatory sentence.

I think it is time we sent a message to our youth, to our parents, to people of all ages and particularly to drug dealers and traffickers that we are really going to be tough on drugs. If they are going to furnish, if they are going to traffick, then they are going to have to pay a price for it. I think that is really the way to go. I do not believe that they we are running into any difficulty at all when we ask for these mandatory sentences and give a minimum sentence for our judges to give to the dealers in drug trafficking. I think that this is really important. I know in my town and other towns people say, "Go to Augusta and do something about drugs. That is our real problem." And so ladies and gentlemen, I do hope you will accept the Majority Report today.

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

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: I would request a roll call please when the vote is taken.

I would like to make a couple of comments that haven't been made by other speakers. I support the report of the majority of the committee. I had the good fortune this week to talk with Justice Alexander, one of the state's leading judges and I am sure the Representative from Portland, Representative Conley, would agree with that.

The Senate Chairman, Senator Brannigan, asked Justice Alexander what his views about mandatory sentencing were. He made it clear that it was a prerogative of the legislature to set mandatory minimums.

Representative Thistle, in talking with you about leaving these people flexibility, neglects to indicate that the judges have a substantial amount of flexibility. They can increase, they simply cannot decrease below what is mandated by this body. Justice Alexander made the point, which was significant to me and I think should be to you, that he has seen this as an effective tool to obtain convictions on plea bargainings. It is an effective tool for the state so that, when these individuals who run about with this horrible substance to give away, or traffick away or anything else, they know that if they are convicted, they will be sentenced. His point was that this makes it easier in the case which Representative Conley would point out, to get a conviction on some other kind of matter where the state's case might be difficult to prove. So it is a handy tool for the prosecutors who are attempting to deal with this problem which everybody recognizes.

One of the other points that was made that I thought was effective and was certainly effective to me was the fact that, while we have mandatory minimums for guns, guns have a legal purpose. There is no legal purpose for the possession of these kinds of drugs. They are, in every event, proscribed. They should never be tolerated in our society and, for that reason, since this legislature already has a policy with respect to guns, so much the more for our having a minimum floor on sentencing for drugs.

I urge you to support the motion of Chairman Paradis of the Committee on Judiciary to adopt the Majority Report.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: As most of the veterans know in this House, I have probably been more involved in the Corrections field than anybody in both bodies.

In looking at this piece of legislation, I would like to reflect on what Representative Thistle has indicated. I am scared, ladies and gentlemen. I am scared that the federal government is going to be coming down our throats very quickly if we do not realize what is going on inside our prisons. In my opinion, the East Wing is the Holiday Inn compared to what is going on in segregation at the Maine State Prison. I was involved in visitations back in 1981, '82, '83, '84, '85, '86, and I will tell you right now, the overcrowding in there is just simply appalling. My own opinion, if Judge Gignoux went through there today, he would probably close the Maine State Prison. That, I think, scares me with a piece of legislation like this.

I guess maybe I am not a redneck, I think I am a realist. I am a realist in the fact that, adding something like this at this particular time, might put us in a particular situation where we won't have any more rooms inside the prisons. I was reading the other day where one of the state's had to release 200 of their prisoners because the federal judge said, thou shall not have any more people inside that prison and he gave them a figure of X-amount of people and, if they went over that, they had to release people. I would hope that we don't get into that situation.

I am just as deadly set against drugs as Representative Vose is but my concern is of what we might be doing with the overcrowding in the next couple of years. One of the things that I learned from Representative Marsano was, we had Judge Alexander at the hearing and Judge Alexander and I were on the Blue Ribbon Commission on Corrections, which came out with their recommendations a couple of years ago, and one of the recommendations of that commission was that each piece of legislation that dealt with anything with corrections should have a correctional impact statement. I would like to know from anybody on the Majority side what the correctional impact statement of this piece of legislation would do to this state because it scares me at this particular time where we have overcrowding, not only at the Maine State Prison, we have overcrowding at the Maine Correctional Center.

I think, as Representative Thistle said, hopefully, in a couple of years, this legislature will take a look at the real problem of corrections and address it and we will need money. There is no question about, we are going to need money. But, to add something at this time scares me and scares me to the point where I think we could be in special session if Judge Gignoux ever walked down to the Maine Correctional Center or the Maine State Prison right now because I think he would shut it down.

I would hope that somebody would look at this piece of legislation and give me a correctional impact statement before we go too much further.

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

Representative PARADIS: Mr. Speaker, Members of the House: In answer to the question posed by the good Representative from Portland, I am awfully delighted he asked that question. I did a little checking this afternoon to find out something about our prison population. Most states have in their prisons about 20 percent of the prison population due to drug trafficking, drug offenses. In Maine, it is only about 3.5. I don't think that we can say that our efforts in this field have proven so successful that we have burdened the prison system in Maine with offenders caught because they were drug traffickers or drug furnishers. We haven't been tough enough.

Some of you know that, about a month ago, my home was broken into while I was here in session. If they catch that person (they have an idea who it is) for burglary or breaking and entering or whatever, I hope that maybe the district attorney and his counsel can plea bargain something so that maybe he doesn't go to prison, a fine, maybe a short term in the county jail. But if that person were dealing with drugs, no way would I want that person to walk the streets without ever having had that door slammed in his face in prison for having dealt with drugs.

The Minority Report and the minority speakers suggest that judges will not sentence offenders to prison. Maybe that is why I didn't sign the Minority Report. Maybe I am not convinced that all those that merit prison terms, those that deal to children, and (second time offenders) those who have already looked at the system and said, it isn't that bad, you don't even have to go to jail, are coming back into the system. The implication is they may never see prison sentences.

As the Representative from Shapleigh indicated, some counsel for them, their attorney will come in with a bag of money, post bond, and they are gone to another state and Maine has to pay enormous sums of money to extradite them back for trial.

I really don't think that we have been tough enough in this state on drug traffickers. I have seen a couple of bills come past my desk in the last few days that call for prison bond issues, a 100 bed facility, maximum security, \$11 million. I believe there is another one for \$16 million. In my nine years, I have never voted against a prison bond issue. There were four of us, four years ago, that put in a \$25 million bond issue, bipartisanly and I was a co-sponsor. I believe the Chairman of the Appropriations Committee was the chief sponsor of that bill, the Representative from Winslow. We need more prison space. Let's reach into our pockets and vote for more prison space but let's not look at the drug offender and say, "Well, on this one, let's draw the line." Let's look at some of our other crimes and say maybe these may not need prison sentences or long sentences but drug trafficking does. We stand in danger of losing our young people, that is how dangerous it is. You know it better than I do, I am not a parent, I don't have to deal with my children at night and wonder when they go off to school how many drug pushers are going to be there dealing with drugs around the corner from the school or something.

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

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

Representative TAYLOR: Mr. Speaker, Men and Women of the House: I feel as though tonight we have got an opportunity to make a stand. I think we need to make a stand. I think we have to decide how tough we are going to be. How tough are we going to be in the message we send? We are sending a message to young people, we are sending a message to confused young parents and we are sending a message to people who are, indeed, trafficking drugs to either support their own habit or live a little bit richer life.

The message that was sent out about drunk driving laws was tough and, in fact, included incarceration. I think it has had an effect, I think it has made a difference, and I think there is a corollary here.

I am very pleased to be part of this legislation. You will hear caution expressed by people who within the law feel it may be valid. I think the question we have to ask ourselves is, is it valid enough not to take a stand and be afraid of the possibility of mandatory sentencing?

You have heard other concerns about overcrowded prisons. I am on that same committee, I know what the problems are, but do we truly fail to make laws because of that? I really hope we don't take that as the main reason, even though it is a concern. I am not too sure it is a reason not to pass a piece of legislation.

Several years ago in my town of Camden, we were distraught over the death of a 15 year old. She went to high school one morning, by noon she was dead, drugs were responsible. In the next two years, I was very involved in a community group, I think trying to recover in our own way how we could deal with this, as well as trying to do some things in our community that might make a difference. We took a stand with a small shop that was selling paraphernalia. We ended up, in our own little way, of funny parents walking around town saying, we are not going to use your shop unless you get that junk out of it. It worked. We have to stand up and say what we believe in.

My generation had alcohol as its substance of choice. You and I know, in my generation, how we used or may have abused it, but I don't think people in my generation truly understand the pressure that the younger generation is under. Every single day, the young people tell me that when they go to the school yard, it is there, the opportunity is there, the options are there. I don't think that we are going to do an awfully lot with our young people unless we are willing to make a strong statement. We all deal with our own substances in our own way. You and I know how we will. But I think it is time for this state to say, we must stop it and we must be willing to take a strong voice.

I certainly would urge you to support the Majority Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sanford, Representative Paul.

Representative PAUL: Mr. Speaker, Ladies and Gentlemen of the House: When we consider the many laws that are on the books today, those of us who have had the opportunity and continue to do so in enforcing these laws, are familiar with the many loopholes and technicalities that exist in some of them. Many times we find that criminals seem to find a way out. This alone frustrates many law enforcement officials. I think it is about time we send a message to those who persist in doing drug business in the illegal drug market.

I hope you will vote, as I will today, for the Majority Report.

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

Representative BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to the gentleman from Augusta, Representative Paradis.

Representative Paradis -- you mentioned that 3.5 percent of the prison is filled with people convicted for drug pushing. Could you tell me the percentage of convicted drug pushers who are not placed in jail?

The SPEAKER PRO TEM: Representative Baker of Portland has posed a question through the Chair to Representative Paradis of Augusta who may respond if he so desires.

The Chair recognizes that Representative.

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I don't quite know if I understand the gentleman's question correctly but let me say that, if his question is, are there many out there who are drug pushers who are not in prison and ought to be, I would say yes, the answer is yes. There are many out there who are drug pushers, who

probably have been convicted of drug offenses and who haven't gone to jail and ought to go to jail.

I don't have any hard data, none was presented to the committee and perhaps none was presented to the Chairman of the Select Committee on Corrections as to what the probable impact would be from such legislation. There is no way to know. We have to know how much money we are going to put into our crime fight against drugs. We really don't know, it depends on an awful lot of resources and an awful lot of variables but I think we need legislation of this type if we are going to have safety. It comes down to choosing either mortar or safety. Again, I think the gentleman from Portland is an advocate of more prison space to alleviate overcrowding and to take care of the health and safety of the citizens. If he isn't, I wish he would rise and explain further what he implied by his question.

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

Representative BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I am most happy to do that. I asked the question because I was trying to get an idea if you had the data that showed that we had a large percentage of convicted drug pushers that were not being sent to jail. I believe, if I am correct, you said that nobody presented any of that data. Now, I don't believe that any of that data has also been sent to my committee. I asked that question because I think it is very important that we know whether or not that a problem really exists that these drug pushers, that are pushing this bad stuff -- believe me when I tell you that I have no love for these people. I can see their activities across the street from where I live, every day, and I have no love for them. If we do not have any data or statistics that show us that a great deal of these convicted pushers are not being sent behind bars, then it becomes very difficult for me to suddenly say, all right, let's enact a mandatory sentencing law. I could be persuaded to change my mind if I saw the statistics. If somebody came before us and said, we can show you that 80 percent of the drug pushers that have been convicted for pushing cocaine on young people are not being sent to jail, then someone could persuade me.

When Representative Paradis mentioned that 3.5 percent of the prison population were drug pushers, that does not necessarily mean that a lot of the drug pushers are not being put into jail. It could be, and I am not staking my reputation on it because we don't have the statistics, but it could be that, in comparison to other states, we don't have the same degree of drug pushing as -- let's say Connecticut, Massachusetts or New York. I just wanted to make that point. I think we ought to think about that point before we go ahead and enact a mandatory sentencing.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Biddeford, Representative Sheltra.

Representative SHELTRA: Mr. Speaker, Men and Women of the House: I am a layman and I haven't been with the Judiciary and I haven't been on this type of committee but, as I was listening to Representative Conley's dissertation, which was, believe me, very well rendered, I couldn't help but try to imagine myself as a judge. Usually a person doesn't become a judge until later on in life and his family has grown up and he is looking towards retirement and a peaceful existence and can you imagine yourself as being a judge and confronting some crazed, drugged-up kid who is threatening your life or your being or your family?

I would think that this mandatory sentencing would be some kind of a relief to the judge, stating, this is the law and this is what you have to face, unless you correct yourself, things are going to get worse and not better. This is actually the way that I am looking at it. Perhaps I am wrong but I have a dear friend that is a judge and I have heard many horror stories of what he has had to put up with with these teenagers. Through no fault of their own, I know that they have been seduced into taking these drugs but, according to what I have heard and what I have seen, I would think that the judge would think this a matter of relief and a help. Later on, if they want to administer a more severe penalty, they will be in a position to do so.

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

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, serve on the Corrections Committee and I know the severe problems of what is happening in the prisons, not only in Maine, but across the country. It is these mandated policies that we are setting forth.

I would like to call your attention to what Representative Paradis from Augusta mentioned regarding the low percentage of people in prison in the State of Maine. One of the very reasons why they are low is why this whole bill is being put in tonight, to strengthen the laws on heroin and so forth.

I also brought in a couple of bills dealing with drugs this year because we have to toughen the laws but I say, leave it up to the judges, when it comes to giving the sentence.

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

Representative CONLEY: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to redebate the bill, I just thought I could mediate between my good chairman and the Chairman of the Corrections Committee. I just want you to know that should there be any doubt in this chamber, which I hope there isn't, I have represented some people involved in this business before (this drug stuff) and, after they have been found guilty, I have one phrase of advice for them, "Please bring your toothbrush to court when we go for sentencing." People go to jail, don't have any doubts about that, nobody walks out of that courtroom without going to jail if they are convicted in this state of trafficking in any type of drug. I don't think anybody should be misled about that in any way, that is aside from any other issue we are debating here, aside from the mandatory sentencing element of this bill. I just want you to have faith in our judges that they are sending these people to jail, they go to jail.

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

Representative SCARPINO: Mr. Speaker, Men and Women of the House: In response to the good gentlemen from Portland, Mr. Baker and Mr. Conley, while they may go to jail, if the number is 3.5 percent at the Maine State Prison in Thomaston, that is about 15 people in this entire state. I've got a feeling there is more than 15 dealers out there, I really do. I want you to sit and think about those mandated policies. If we don't mandate something, every time there is a drug overdose, every time there is a death on the street, every time someone's son or daughter dies, just remember that the person that sold her those wares, the peddler of death folks, maybe would have been in prison if we had mandated sentencing.

I listened to my other friend from Portland, Mr. Manning, talk about his concern for overcrowding at the prison and the hellish conditions that exist in segregation in that prison. Well, I used to work there every night from five-thirty until five o'clock in the morning in the segregation unit in the prison. It is not a nice place to live but the folks that live there aren't very nice folks either.

Quite simply, if I am given the choice over the living conditions of a totally disreputable person, a dealer in death, or the life of someone on the outside free of addiction to chemical substance, I am sorry, the person on the outside, the person who is not the dealer in drugs, wins every time. I am not about to let the concern (and it may be a totally false concern) but I am not about to let the concern of the federal government and a consent agreement on our prisons prevent me from doing everything I can to keep these dealers in death, because that is just what these people are is dealers in death, off the streets of this state.

I think anyone who seriously sits down and looks at the options we have could make no other decision than to put them in jail as long and as hard and as fast as we possibly can to make sure they go in and stay in. To me, the first step towards that is mandated sentencing, the second step is more prisons, but the first step is mandated sentencing.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I have been thinking about the Majority and Minority Reports on this bill. I know several judges and I came to the conclusion that, for the most part, I think we are paying them now in the neighborhood of \$70,000 a year plus benefits, that we have to pay them that amount of money in order to attract them away from very excellent firms in the prime of their career and, because we are paying them that kind of money for that kind of expertise, I feel that we have to leave something up to them. I don't like mandating anything.

I am not comfortable with drugs and I have two young children but I am not going to tell judges and, in my case, the judges I know are tough guys and I am not going to tell them what they should do because circumstances can always be extenuating. They can mostly be horrible, they can 90 percent of the time deserve sentencing but, for that 10 percent where the sentence should maybe be two weeks and not a year, where the lesson can be learned and the family in crisis can go into therapy to deal with it, I want the judge to have the ability to be a judge and to make those decisions that we pay them handsomely for (or her) and that we train them very well for. I guess I have that kind of a vote of confidence in our judges so I am going to go along with the Minority Report.

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

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, there is an ad that I have seen on television several times lately. I don't know if you people have seen it or not. It certainly had a profound impression on me. It shows a cemetery with dozens and dozens and dozens of tombstones. In the middle of that cemetery, in the middle of all those tombstones, there was a young father crying and he is looking down at one of the tombstones and saying, "I intended to tell you all about drugs and all the things that would happen. I intended to tell you all about that but I didn't

think that I would have to tell that to a 13 year old."

Ladies and gentlemen, we have a real drug problem, let's go after it. Let's have some really tough laws and vote for this Majority Report.

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

Representative FARNUM: Mr. Speaker, Ladies and Gentlemen of the House: I am going to speak from experience again. I had a good many students pass through my hands in school. I can picture three right now. In almost any week, I can see those three when I go home. One was a brilliant boy, he won a scholarship to college plus board and room. The other two were just good average boys. They are shells now, they can't even hold a job. I think that even the majority bill isn't strong enough. I would say vote for that Majority bill and let's stop these pushers.

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.

At this point, Speaker Martin resumed the Chair.

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

ROLL CALL NO. 136

YEA - Aliberti, Anderson, Armstrong, Bailey, Begley, Bickford, Bost, Bott, Brown, Callahan, Carter, Cashman, Clark, H.; Coles, Crowley, Curran, Davis, Dellert, Dexter, Erwin, P.; Farnum, Farren, Foss, Garland, Gould, R. A.; Gwadosky, Hale, Harper, Hepburn, Hickey, Holloway, Ingraham, Jackson, Jacques, Jalbert, Kilkelly, LaPointe, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Marsano, Martin, H.; McHenry, McPherson, McSweeney, Michaud, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Paradis, P.; Parent, Paul, Perry, Pines, Pouliot, Reed, Rice, Richard, Ridley, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Small, Smith, Soucy, Stanley, Stevens, A.; Strout, B.; Strout, D.; Swazey, Tardy, Taylor, Telow, Vose, Walker, Webster, M.; Wentworth, Weymouth, Willey.

NAY - Allen, Anthony, Baker, Boutilier, Carroll, Chonko, Clark, M.; Conley, Cote, Diamond, Dore, Duffy, Foster, Greenlaw, Gurney, Handy, Hichborn, Hogle, Holt, Hussey, Joseph, Ketover, Lacroix, Mahany, Manning, Matthews, K.; Melendy, Mills, Mitchell, Nadeau, G. R.; Paradis, J.; Priest, Rand, Reeves, Rolde, Rotondi, Ruhlin, Rydell, Simpson, Tammaro, Thistle, Tracy, Tupper, Warren.

ABSENT - Bragg, Dutremble, L.; Hanley, Higgins, Hillock, Kimball, Macomber, Mayo, McGowan, Racine, Stevens, P.; Stevenson, Whitcomb, Zirkilton, The Speaker.

Yes, 90; No, 44; Absent, 15; Vacant, 2; Paired, 0; Excused, 0.

90 having voted in the affirmative and 44 in the negative with 15 being absent and 2 vacant, 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.

CONSENT CALENDAR

First Day

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

(H.P. 1164) (L.D. 1590) Bill "An Act to Clarify Certain Sections of the Motor Vehicle Laws" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-310)

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.

Tabled and Assigned

(H.P. 1251) (L.D. 1709) Bill "An Act to Amend the Laws Administered by the Department of Environmental Protection" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-311)

On motion of Representative Gwadosky of Fairfield, was removed from Consent Calendar, First Day.

Report was read and accepted, the Bill read once. Committee Amendment "A" (H-311) was read by the Clerk.

On motion of Representative Diamond of Bangor, tabled pending adoption of Committee Amendment "A" and specially assigned for Friday, June 12, 1987.

(H.P. 1256) (L.D. 1714) Bill "An Act to Clarify the Organizational Status of the Bureau of Lottery within the Department of Finance" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-312)

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.

(H.P. 902) (L.D. 1203) Bill "An Act to Allow the Treasurer of State to Vote on Certain State Boards" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-313)

On motion of Representative Gwadosky of Fairfield, was removed from Consent Calendar, First Day.

Reports were read and accepted, the Bill read once.

Committee Amendment "A" (H-313) was read by the Clerk and adopted and the Bill assigned for second reading Friday, June 12, 1987.

(H.P. 590) (L.D. 801) Bill "An Act to Prohibit Open Alcoholic Beverage Containers in Motor Vehicles" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-314)

On motion of Representative Gwadosky of Fairfield, was removed from Consent Calendar, First Day.

Reports were read and accepted, the Bill read once.

Committee Amendment "A" (H-314) was read by the Clerk and adopted and the Bill assigned for second reading Friday, June 12, 1987.

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/New Title

Representative HOLT from the Committee on Marine Resources on RESOLVE, to Study the Human Health and Environmental Hazards of Tributyltin in Antifouling Products (H.P. 942) (L.D. 1265) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Concerning the Use of Tributyltin as an Antifouling Agent" (H.P. 1335) (L.D. 1825)

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 RICHARD from the Committee on Utilities on Bill "An Act to Repeal the Jurisdiction of the Public Utilities Commission over Transportation by Water in Casco Bay" (H.P. 79) (L.D. 82) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Revise the Laws Concerning Transportation by Water in Casco Bay and to Study Related Issues" (H.P. 1336) (L.D. 1826)

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 TARDY from the Committee on Agriculture on Bill "An Act to Increase Maine Agricultural Market Research and Development" (H.P. 801) (L.D. 1075) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Create an Agricultural Market Research and Development Fund Program" (H.P. 1337) (L.D. 1827)

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

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

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

CONSENT CALENDAR

First Day

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

(H.P. 386) (L.D. 520) Bill "An Act to Require Community Mental Health and Mental Retardation Involvement in Social Services Planning" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-316)

(S.P. 242) (L.D. 673) Bill "An Act Making Authorizations and Allocations Relating to Federal Block Grants for the Expenditures of State Government for the Fiscal Years Ending June 30, 1987, June 30, 1988, and June 30, 1989" (Emergency) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-171)

(S.P. 405) (L.D. 1256) Bill "An Act to Make Adjustments in the School Finance Act" Committee on

Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-172)

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 and the Senate Papers were passed to be engrossed as amended in concurrence.

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

REPORTS OF COMMITTEES

Ought to Pass in New Draft

Representative ALLEN from the Committee on Business Legislation on Bill "An Act to Amend the Maine Optometric Code" (H.P. 765) (L.D. 1028) reporting "Ought to Pass" in New Draft (H.P. 1338) (L.D. 1828)

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

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

CONSENT CALENDAR

First Day

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

(S.P. 496) (L.D. 1513) Bill "An Act to Remove the Responsibility of the Department of Agriculture, Food and Rural Resources to Pay for Wildlife Damage" Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (S-176)

(S.P. 439) (L.D. 1334) Bill "An Act to Improve Fire Prevention Activity of Railroads" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-177)

(S.P. 147) (L.D. 401) Bill "An Act to Establish an Alternative to the Certificate of Need Process to Address the Needs of Medicaid Patients in Need of Nursing Home Care" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-178)

Under suspension of the rules, Second Day Consent Calendar Notification was given and the Senate Papers were passed to be engrossed as amended in concurrence.

On motion of Representative Vose of Eastport, under suspension of the rules, the House reconsidered its action whereby An Act to Ensure Safe Abatement of Asbestos Hazards (H.P. 1286) (L.D. 1762) (S. "A" S-150; H. "A" H-278) was passed to be enacted.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 1762 was passed to be engrossed.

The same Representative offered House Amendment "B" (H-322) and moved its adoption.

House Amendment "B" (H-322) was read by the Clerk and adopted.

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

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

By unanimous consent, House Rule 22 was suspended.

The following item appearing on Supplement No. 15 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 Not to Pass" on Bill "An Act to Reassign the Duties of the Office of Energy Resources" (H.P. 1091) (L.D. 1482)

Signed:
 Senator: TUTTLE of York
 Representatives: BOUTILIER of Lewiston
 ROTONDI of Athens
 LACROIX of Oakland
 HUSSEY of Milo
 CARROLL of Gray
 ANTHONY of South Portland

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-320) on same Bill.

Signed:
 Senators: GOULD of Waldo
 BAI DACCI of Penobscot
 Representatives: BICKFORD of Jay
 LOOK of Jonesboro
 WENTWORTH of Wells
 STROUT of Windham

Reports were read.

Representative Carroll of Gray moved that the House accept the Majority "Ought Not to Pass" Report.

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

Representative WENTWORTH: Mr. Speaker, Members of the House: I hope you would vote against this "Ought Not to Pass" bill so you can accept the Minority Report and, at the request of the administration, replace the energy planning section onto the Governor's Planning Commission.

I would ask for a Division.

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

Representative BICKFORD: Mr. Speaker, Ladies and Gentlemen of the House: I, too, urge that you do not accept the Majority Report. I would like to share with you a few reasons why. During the 1970's, this office was fully federally funded. During the next biennium, this office will only be funded 15 percent by the federal government. I believe that people have become more energy conscious and that we don't necessarily need the office just to deal with people to call to see whether they want to put in six inches of insulation in the walls or 12 inches of insulation in the walls, they are well aware of that now.

Also, if you do vote with the Minority Report, you will not be eliminating positions. These positions will be transferred to the State Development Office and to the State Planning Office.

In summary, I think we have a chance to consolidate an existing state government department and we can bring about more efficient state government. I would urge you to defeat the Majority Report.

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

Representative CARROLL: Mr. Speaker, Men and Women of the House: The Office of Energy Resources is working, it has been working for 12 years and doing an incredible job for 12 years and truly this is not the time in state government to lose the emphasis on oil or on conservation or energy practices in this state or any other state.

Today's Bangor Daily News ironically had an article predicting in the northeast this summer, an

electricity shortage. That in itself and the turmoil that continually happens in the Middle East, as we witnessed recently with attack on the U.S. Navy vessel, surely shows that the volatile world in the Middle East where we get our oil supply means that energy is something that will always be with us. Every major editorial writer in the State of Maine has urged us to keep the Energy Office. It functions well, it does a tremendous job in planning, it does a tremendous job in promoting energy conservation and works with communities, individuals, development offices to keep the energy conservation and the energy image out there for the people of the State of Maine as a constant reminder.

I would urge you tonight to maintain that credibility, to maintain the state's lead in this nation in energy conservation and to keep the office intact.

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

Representative STANLEY: Mr. Speaker, Ladies and Gentlemen of the House: If we were really interested in energy conservation, we would have kept the speed limit at 55, friends.

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

A vote of the House was taken.

Representative Bickford of Jay 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, Ladies and Gentlemen of the House: I was involved with this bill so I think I should say a few things even though the final results are rewrites of anything I had. The original bill, as presented, gave the Governor the latitude to move positions to departments where he felt they should go. It was strictly a management decision.

As you know in the past, I have had bills dealing with the Office of Energy Resources and the Governor disagreed with my position and with others. I felt the functions were important but from a management standpoint he didn't think that some of the things should be reassigned. As I read it, the Minority Report as amended by Committee Amendment "A" keeps the Office of Energy Resources. It simply moves the planning people (4 planners in the Office of Energy Resources) to the State Planning Office. I believe the State Planning Office people and the Governor feel that state planning should be done in one office, be it energy, be it jobs, be it whatever, state long-range planning belongs in the State Planning Office.

So, I would urge you to vote no on the Majority Report, go to the Minority Report and, as I said, all the Minority Report does is move four planners to the State Planning Office. I think this is a wise management decision. They have looked at this and this is what they feel is the most sufficient way to handle this long-range plan. I would ask you to vote

no on the pending motion so that we can accept the Minority Report and move these four people to what I think is the logical office.

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

Representative BICKFORD: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to add a little bit. Because of the rumor about this office potentially being dissolved, the morale of the people in that office is now very low. I am not so sure that the productivity is as high as it should be. They are very dedicated people but a lot of them left because of this potential to dissolve. I think that we have a golden opportunity right now to transfer the Energy Office into the the State Planning Office and the State Development Office and I would urge the Minority Report.

The SPEAKER: The pending question before the House is the motion of Representative Carroll of Gray 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. 137

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

NAY - Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Callahan, Curran, Davis, Dellert, Dexter, Duffy, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Harper, Hepburn, Hichborn, Holloway, Ingraham, Jackson, Lawrence, Lebowitz, Look, Lord, MacBride, Marsano, Martin, H.; Matthews, K.; McPherson, Michaud, Murphy, E.; Murphy, T.; Nicholson, Norton, Paradis, E.; Parent, Pines, Reed, Rice, Ridley, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, Stanley, Stevens, A.; Strout, B.; Taylor, Telow, Tupper, Webster, M.; Wentworth, Willey.

ABSENT - Bragg, Chonko, Dutremble, L.; Hanley, Higgins, Hillock, Kimball, Macomber, Mayo, McGowan, Racine, Stevens, P.; Stevenson, Weymouth, Whitcomb, Zirkilton.

Yes, 74; No, 59; Absent, 16; Vacant, 2; Paired, 0; Excused, 0.

74 having voted in the affirmative and 59 in the negative with 16 being absent and 2 vacant, the motion to accept the Majority "Ought Not to Pass" Report did prevail. Sent up for concurrence.

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

SENATE PAPERS

The following Joint Order: (S.P. 621)

Ordered, the House concurring, that "AN ACT to Create the Department of Economic and Community Development, to Establish Consistency among Economic Development Laws and to Establish a Capital Budgeting and Planning Process", H.P. 1324, L.D. 1808, be recalled from the Engrossing Department to the Senate.

Came from the Senate, read and passed.

Was read and passed in concurrence.

Non-Concurrent Matter

An Act to Name the Finback Whale as the State Marine Mammal (H.P. 368) (L.D. 482) on which the Bill and accompanying papers were indefinitely postponed in the House on June 11, 1987.

Came from the Senate passed to be enacted in non-concurrence.

Representative Clark of Millinocket moved that the House recede and concur.

Representative Begley of Waldoboro moved that the House adhere.

The SPEAKER: The pending question is to recede and concur. If you wish to adhere, you will defeat the motion to recede and concur.

The Chair will order a Division.

The pending question before the House is the motion of Representative Clark of Millinocket that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

59 having voted in the affirmative and 74 in the negative, the motion to recede and concur did not prevail.

Subsequently, the House voted to adhere.

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

The following items appearing on Supplement No. 19 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 Fund Statewide Community Response Programs to Reduce Spouse Abuse in Maine Communities" (H.P. 340) (L.D. 439) reporting "Leave to Withdraw"

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

COMMITTED TO THE COMMITTEE

ON AGING, RETIREMENT AND VETERANS

Bill "An Act to Create an Additional Section to the Maine Code of Military Justice Penalizing False Official Statements" (H.P. 1329) (L.D. 1813)

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

On motion of Representative Hickey of Augusta, was committed to the Committee on Aging, Retirement and Veterans. Sent up for concurrence.

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

Divided Report

Majority Report of the Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-305) on Bill "An Act to Clarify the State's Responsibility to Establish Competitive Pay Schedules for State Teachers and Related Classifications" (H.P. 884) (L.D. 1185)

Signed:

Senators: RANDALL of Washington
ESTES of York

Representatives: PARADIS of Frenchville
GOULD of Greenville

NORTON of Winthrop
HANDY of Lewiston

KILKELLY of Wiscasset
BOST of Orono

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

Signed:

Representatives: SMALL of Bath
MATTHEWS of Caribou
O'GARA of Westbrook
LAWRENCE of Parsonsfield

Reports were read.

Representative Bost of Orono moved that the House accept the Majority "Ought to Pass" Report.

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

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will not accept the Majority "Ought to Pass" Report so we can then accept the "Ought Not to Pass" Report.

This bill in its amended form does two things. It requires negotiations for pay for teachers at state institutions and related classifications based on a year of 180 school days and it defines the term "related classifications."

This legislation calls for negotiations to take place for related classifications, meaning teaching classifications which, among others, will include education specialists and a number of personnel in the education department, not classroom teachers, but people employed in the Department of Education.

The original teacher compensation package limited stipends and minimum salaries to teachers as defined in seven categories and restricted to K-12, public schools, private schools serving as public high schools, and state-operated K-12 schools. Since then, the Education Committee has killed every attempt to extend the law to cover any other groups. For example, teachers in correctional facilities, teachers in the VTI's, teachers in private special purpose schools such as Sweetzer.

The term "related classifications" was never intended to apply to the Department of Education and Cultural Services positions and yet, at the exclusion of others, we are now including them. We may argue, and justifiably so, that personnel in the Education Department need to be paid more but this is not the vehicle with which to do it.

The 180 day clause in the amended bill sounds simple enough but will have a major impact in both the cost to the state in an equity for our public school teachers.

Currently, our state teachers are paid according to a 42 week schedule. Base pay is set on the 42 weeks and all weeks after that are prorated. Public schools, on the other hand, operate on a 180 day schedule or 36 weeks. It appears at first as if there is a great inequity between public and state teachers until you realize that state teachers, working 42 weeks, receive 12 paid holidays and up to 24 days paid vacation. They are not the same as public school teachers who receive neither.

In the chart the committee received, breaking down the actual number of days worked, the salary per day of both public and state teachers were not that different. In fact, in all except one case, state teachers were paid higher than public school teachers. By changing this law to base salaries upon a 180 day school year and every day after that proportionally higher, some state teachers with their fringe benefits with paid vacation and holidays will be paid higher than our public school teachers.

I hope you will vote against the "Ought to Pass" Report and I request a Division.

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

Representative BOST: Mr. Speaker, Ladies and Gentlemen of the House: This bill simply clarifies the existing law with regard to minimum teacher salaries, specifically those at the Maine Correctional Institutions, the Baxter School and the unorganized territories.

The Education Committee retained the bills original language which referred to classifications within the career ladder of teaching classification by virtue of their relationship to educational supervision or programing. This includes professionals in curriculum related positions within the Department of Education who are responsible for implementation of the state's educational programs and policies in both state and local schools.

These positions are filled from the teaching ranks and their salaries should have a corresponding relationship to what teachers receive across the state to the extent that raising teachers salaries has an impact on appropriate pay raises for these positions, the parties are instructed to negotiate over them. These adjustments are similar to those being made in local schools with respect to related positions in those schools such as principals, superintendents and special program directors.

The Majority Report determines that the state will consider and implement the same changes that are expected to occur and, for the most part, have occurred in our local schools systems. It is important to understand that without specific authorization by legislation, there can be no negotiating between parties on pay raise for individual classifications. This legislation removes obstacles of addressing teachers salaries in state government, it is a narrower definition than now exists in current law.

So, in summation, what this bill does, ladies and gentlemen of the House, is to allow teachers who teach at the Maine Correctional Facility, the Baxter School and the unorganized territories to negotiate for the same salaries we have authorized for all other teachers. It is a modest proposal and I certainly would hope that the House would go along with the bipartisan Majority Report.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I had not intended to speak on this particular bill but there are a number of constituents of mine who teach at the Maine Youth Center. In the past and at present, they have been treated as second-class citizens as compared to other teachers. I think that is really unfortunate especially when you consider how much the state legislature claims to be caring about the correctional institutions and the quality of care that goes on there.

The teaching of individuals at the Maine Youth Center is a very important function. This is our opportunity to take kids who have gotten into trouble, straighten their lives out, give them a fresh start. If we can't attract the best quality teachers to this institution, we are really failing our stated goals of trying to do something about the crime problem in the State of Maine.

It seems to me this modest proposal is a good place to start.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I get up for only one reason. I am not really sure how to explain it except that I am embarrassed to say that, as a result

of missing a couple of meetings earlier, I did vote with the minority, but since that day (and I will be tonight) supporting the majority vote and I didn't want to see my light go up there and be embarrassed later on.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Bost of Orono 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.

66 having voted in the affirmative and 34 in the negative, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-305) 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.

(Off Record Remarks)

The Chair laid before the House the following matter: SENATE DIVIDED REPORT - Majority (7) "Ought Not to Pass" - Minority (5) "Ought to Pass" in New Draft (S.P. 607) (L.D. 1797) - Committee on State and Local Government on Bill "An Act to Allow Aroostook County to Contract for Services for the Operation of the County Jail" (S.P. 380) (L.D. 1156) which was tabled earlier in the day and later today assigned pending the motion of Representative CARROLL of Gray that the House accept the Majority "Ought Not to Pass" Report.

Representative Carroll of Gray withdrew his motion to accept the Majority "Ought Not to Pass" Report.

On motion of Representative Carroll of Gray, the House accepted the Minority "Ought to Pass" Report, the New Draft read once.

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

Representative Carroll of Gray offered House Amendment "A" (H-321) and moved its adoption.

House Amendment "A" (H-321) was read by the Clerk and adopted.

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

The following items appearing on Supplement No. 20 were taken up out of order by unanimous consent:

PASSED TO BE ENGROSSED
As Amended

Bill "An Act Concerning the Use of Tributyltin as an Antifouling Agent" (H.P. 1335) (L.D. 1825)

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

Representative Coles of Harpswell offered House Amendment "A" (H-326) and moved its adoption.

House Amendment "A" (H-326) was read by the Clerk and adopted.

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

The Chair laid before the House the following matter: Bill "An Act to Allow Increased Participation of State Employees in the Electoral Process" (S.P. 606) (L.D. 1796) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Carroll of Gray, under suspension of the rules, the House reconsidered its action whereby L.D. 1796 was passed to be engrossed.

Representative Carroll of Gray offered House Amendment "A" (H-323) and moved its adoption.

House Amendment "A" (H-323) 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.

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

SENATE PAPERS

Ought to Pass as Amended

Report of the Committee on Judiciary reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-147) on Bill "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine" (Emergency) (S.P. 576) (L.D. 1717).

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-147) as amended by Senate Amendments "A" (S-152), "C" (S-155), "D" (S-164), "E" (S-167), and "F" (S-168) thereto.

Report was read and accepted, the bill read once. Committee Amendment "A" (S-147) was read by the Clerk.

Senate Amendment "A" (S-152) to Committee Amendment "A" (S-147) was read by the Clerk and adopted.

Senate Amendment "C" (S-155) to Committee Amendment "A" (S-147) was read by the Clerk and adopted.

Senate Amendment "D" (S-164) to Committee Amendment "A" (S-147) was read by the Clerk and adopted.

Senate Amendment "E" (S-167) to Committee Amendment "A" (S-147) was read by the Clerk and adopted.

Senate Amendment "F" (S-168) to Committee Amendment "A" (S-147) was read by the Clerk and adopted.

Committee Amendment "A" (S-147) as amended by Senate Amendments "A", "C", "D", "E", and "F" thereto were adopted and the Bill assigned for second reading Friday, June 12, 1987.

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

SENATE PAPERS

Bill "An Act to Correct Errors and Omissions in the Legislation Implementing Collective Bargaining Agreement for Maine Vocational-Technical Institute System Employees" (Emergency) (S.P. 615) (L.D. 1815)

Came from the Senate under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed.

(The Committee on Reference of Bills had suggested reference to the Committee on Appropriations and Financial Affairs.)

Under suspension of the rules and without reference to any Committee, the bill was read twice and passed to be engrossed in concurrence.

CONSENT CALENDAR
First Day

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

(H.P. 222) (L.D. 290) Bill "An Act to Alter the Makeup of the Maine Health Care Finance Commission" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-324)

(H.P. 1099) (L.D. 1490) Bill "An Act Requiring that Informed Consent be Given to those Persons Tested for the Presence of Antibodies to HTLV-III" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-325)

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

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

SENATE PAPER

Non-Concurrent Matter

Bill "An Act to Create a New Major Policy-influencing Position for the Department of Defense and Veterans' Services, Namely, a New Civilian Position of Deputy Commissioner" (H.P. 1330) (L.D. 1814) which was referred to the Committee on State and Local Government in the House on June 11, 1987.

Came from the Senate referred to the Committee on Aging, Retirement and Veterans in non-concurrence. The House voted to Adhere.

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Revise the Laws Concerning Transportation by Water in Casco Bay and to Study Related Issues" (H.P. 1336) (L.D. 1826)

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

Representative Vose of Eastport offered House Amendment "A" (H-327) and moved its adoption.

House Amendment "A" (H-327) was read by the Clerk and adopted.

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

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

(Off Record Remarks)

On motion of Representative Soucy of Kittery, Adjourned until Friday, June 12, 1987 at nine o'clock in the morning.

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Thursday
June 11, 1987

Senate called to Order by the President.

Prayer by the Honorable Michael E. Carpenter.

FORMER SENATOR CARPENTER: In these waning days, let us join together in the spirit of prayer. Dear Lord, we ask that You grant us patience when listening, strength when speaking, and courage when making decisions in our personal lives. Help us to serve our State and its people to the best of our ability. Thank You for accepting our short coming's, help us to carry out Your will, as we draw near the end of this 113th Legislative Session. In Your name. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

COMMUNICATIONS

The Following Communication:
113th LEGISLATURE
COMMITTEE ON AGING, RETIREMENT AND VETERANS
June 10, 1987

The Honorable Charles P. Pray
President of the Senate of Maine
State House
Augusta, Maine 04333
Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 113th Maine Legislature, the Joint Standing Committee on Aging, Retirement and Veterans has had under consideration the nomination of Grover B. MacLaughlin of Orono, for appointment to the Maine State Retirement System Board of Trustees.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 2
Representatives 9

NAYS: 0

ABSENT: 2 Sen. Randall of Washington, Rep. Matthews of Caribou

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Grover B. MacLaughlin of Orono, for appointment to the Maine State Retirement System Board of Trustees be confirmed.

Sincerely,
S/Georgette B. Berube
Senate Chair
S/Daniel B. Hickey
House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on AGING, RETIREMENT AND VETERANS has recommended the nomination of Grover B. MacLaughlin of Orono for appointment to the Maine State Retirement System Board of Trustees be confirmed.