

MAINE STATE LEGISLATURE

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

VOLUME III

FIRST CONFIRMATION SESSION

August 21, 1987
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FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987
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SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987
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SECOND REGULAR SESSION

January 6, 1988 to March 24, 1988

A vote of No will be opposed.
 Is the Senate ready for the question?
 The Doorkeepers will secure the Chamber.
 The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BALDACCI, BLACK,
 BRANNIGAN, BUSTIN, CLARK, DOW,
 DUTREMBLE, ERWIN, ESTES, GAUVREAU,
 GILL, KANY, KERRY, MATTHEWS, PEARSON
 RANDALL, THERIAULT, TUTTLE, USHER,
 WHITMORE, THE PRESIDENT - CHARLES P.
 PRAY

NAYS: Senators BERUBE, BRAWN, CAHILL,
 COLLINS, DILLENBACK, EMERSON, GOULD,
 LUDWIG, MAYBURY, PERKINS, SEWALL,
 TWITCHELL, WEBSTER

ABSENT: Senators None

22 Senators having voted in the affirmative and
 13 Senators having voted in the negative, with No
 Senators being absent, the Bill was PASSED TO BE
 ENACTED and having been signed by the President was
 presented by the Secretary to the Governor for his
 approval.

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

Senator BERUBE of Androscoggin was granted
 unanimous consent to address the Senate off the
 Record.

Senator KERRY of York was granted unanimous
 consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator KERRY of York, ADJOURNED
 until Friday, March 18, 1988, at 12:00 in the
 afternoon.

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
 SECOND REGULAR SESSION
 47th Legislative Day
 Friday, March 18, 1988

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

Prayer by Father Sylvio Levesque, Saint Francis
 DeSales Catholic Church, Waterville.

The Journal of Thursday, March 17, 1988, was read
 and approved.

Quorum call was held.

SENATE PAPERS

Unanimous Leave to Withdraw

Report of the Committee on Economic Development
 reporting "Leave to Withdraw" on RESOLVE, to
 Establish a Study Commission on Maine Job Service
 Procedures (S.P. 833) (L.D. 2167)

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

Divided Report
Tabled and Assigned

Majority Report of the Committee on Energy and
Natural Resources on Bill "An Act to Revise the
 Energy Building Standards Act" (S.P. 93) (L.D. 247)
 reporting "Ought to Pass" in New Draft (S.P. 958)
 (L.D. 2539)

Signed:

Senators: USHER of Cumberland
 MATTHEWS of Kennebec
 LUDWIG of Aroostook

Representatives: MICHAUD of East Millinocket
 JACQUES of Waterville
 COLES of Harpswell
 HOLLOWAY of Edgecomb
 HOGLUND of Portland
 MITCHELL of Freeport

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

Signed:

Representatives: GOULD of Greenville
 DEXTER of Kingfield
 ANDERSON of Woodland
 LORD of Waterboro

Came from the Senate with the Majority "Ought to
Pass" in New Draft Report read and accepted and the
 New Draft passed to be engrossed.

Reports were read.

Representative Michaud of East Millinocket moved
 that the House accept the Majority "Ought to Pass" in
 New Draft Report.

On motion of the same Representative, tabled
 pending his motion to accept the Majority "Ought to
Pass" in New Draft Report and specially assigned for
 Monday, March 21, 1988.

Non-Concurrent Matter
Later Today Assigned

Bill "An Act to Create a Noneconomic Damages
 Award Act" (H.P. 217) (L.D. 269) on which the Bill
 and accompanying papers were indefinitely postponed
 in the House on March 17, 1988.

Came from the Senate with the Minority "Ought to
Pass" in New Draft under New Title Bill "An Act to
 Establish a Limit on Noneconomic Damages" (H.P. 1843)
 (L.D. 2523) Report of the Committee on Judiciary read
 and accepted and the New Draft passed to be engrossed
 as amended by Senate Amendment "A" (S-342) in
 non-concurrence.

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

ORDERS

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative SOUCY from the Committee on Transportation on Bill "An Act to Permit Exempt Railroad Crossings" (H.P. 1749) (L.D. 2398) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative ZIRNKILTON from the Committee on Taxation on Bill "An Act to Establish a Packaging Tax to Minimize the Use of Nonbiodegradable Packaging Materials" (H.P. 1644) (L.D. 2243) reporting "Leave to Withdraw"

Representative ZIRNKILTON from the Committee on Taxation on Bill "An Act to Create Tax Incentives for Employers who Utilize the Services of Sheltered Workshops" (H.P. 1699) (L.D. 2332) reporting "Leave to Withdraw"

Representative SOUCY from the Committee on Transportation on Bill "An Act to Regulate Development Along Highways" (H.P. 1743) (L.D. 2389) reporting "Leave to Withdraw"

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

Ought to Pass in New Draft/New Title

Representative RYDELL from the Committee on Banking and Insurance on Bill "An Act to Amend the Maine Business Corporation Act and the Maine Nonprofit Corporation Act to Enable Maine Stock and Nonstock Corporations to Adopt Limits on Director Liability and to Modernize Indemnification Provisions" (Emergency) (H.P. 167) (L.D. 208) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Amend the Maine Business Corporation Act to Define the Liability of Directors and to Modernize Indemnification Provisions" (H.P. 1863) (L.D. 2549)

Report was read and accepted, the New Draft read once and assigned for second reading Monday, March 21, 1988.

Ought to Pass as Amended

Representative NADEAU from the Committee on Taxation on Bill "An Act to Provide a Sales Tax Exemption for Charitable Suppliers of Medical Equipment" (H.P. 1451) (L.D. 1962) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-495)

Report was read and accepted, the Bill read once. Committee Amendment "A" (H-495) was read by the Clerk and adopted and the bill assigned for second reading Monday, March 21, 1988.

Ought to Pass as Amended

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Replace the Sales Tax with an Excise Tax on Jet Fuel Used by Turbine-Powered Aircraft Providing Commercial Air Service in Maine" (H.P. 1470) (L.D. 1981) reporting

"Ought to Pass" as amended by Committee Amendment "A" (H-496)

Report was read and accepted, the Bill read once.

Committee Amendment "A" (H-496) was read by the Clerk and adopted and the bill assigned for second reading Monday, March 21, 1988.

Divided Report
Tabled Unassigned

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Prohibit Strikebreaking Activity" (Emergency) (H.P. 1560) (L.D. 2124)

Signed:

Senators:

DUTREMBLE of York
ANDREWS of Cumberland
McHENRY of Madawaska
HALE of Sanford
RUHLIN of Brewer
RAND of Portland
JOSEPH of Waterville
TAMMARO of Baileyville

Representatives:

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

Signed:

Senator:

COLLINS of Aroostook

Representatives:

WILLEY of Hampden
HEPBURN of Skowhegan
ZIRNKILTON of Mount Desert
BEGLEY of Waldoboro

Reports were read.

Representative McHenry of Madawaska moved that the House accept the Majority "Ought Not to Pass" Report.

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

Representative DIAMOND: Mr. Speaker, Men and Women of the House: As some of you might have heard this morning, it was announced by International Paper Company that they will be resuming or renewing negotiations with their four striking unions nationally, effective March 27th. I think this is a very positive step and a major breakthrough in the problems that we in Maine know very well as a result of the labor dispute taking place over in Jay right now.

As we all know when we discussed this issue in the past, there has been a lot of rhetoric from both sides that have dealt directly with the situation in Jay, even though the legislation that we are discussing now and in another matter coming later on, on our calendar, would not address the problem today. It would only address subsequent problems involving strikebreakers.

Because of that history, because we know that we invoke the name of Jay and invoke the name of International Paper when we debate these issues, we feel that it is important that we not do anything that can only inflame the situation or jeopardize any resolution. For that reason, we are encouraging this body not to take any action on either report on this proposal nor on any report of the subsequent proposal coming up later until such time as discussion on the floor is more appropriate.

Again, we don't want to do anything that is going to jeopardize what seems to be a very positive step toward a final resolution. The union's believe that it will take approximately three weeks to deal with the questions that they are about to enter into on March 27th. So, I am going to be asking somebody, preferably my seatmate next to me, to move that this bill be tabled unassigned until such time that it is appropriate to deal with it.

On motion of Representative Gwadosky of Fairfield, tabled unassigned pending the motion of Representative McHenry of Madawaska that the House accept the Majority "Ought Not to Pass" Report.

CONSENT CALENDAR

Second Day

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

(H.P. 1811) (L.D. 2479) Bill "An Act to Require Audit Review of the Bureau of Capitol Security in 1989"

(S.P. 771) (L.D. 2028) Bill "An Act to Appropriate Funds for Structural Repairs to the Woodbury Pond Dam" (C. "A" S-337)

(H.P. 1724) (L.D. 2367) Bill "An Act to Amend the Charter of the Portland Water District" (Emergency) (C. "A" H-487)

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

(S.P. 821) (L.D. 2143) Bill "An Act to Expand and Clarify the Jurisdiction of the Maine State Pilotage Commission" (C. "A" S-339)

On motion of Representative Soucy of Kittery, was removed from the Consent Calendar, Second Day.

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

Committee Amendment "A" (S-339) was read by the Clerk and adopted and the Bill assigned for second reading Monday, March 21, 1988.

(H.P. 1550) (L.D. 2110) Bill "An Act to Conform the Hospital Care Financing System to Certain Federal Requirements Concerning the Civilian Health and Medical Program of the Uniformed Services" (C. "A" H-491)

(H.P. 1652) (L.D. 2260) Bill "An Act to Promote Solid Waste Research" (C. "A" H-492)

(H.P. 1713) (L.D. 2352) Bill "An Act to Amend the Waldoboro Sewer District Charter" (C. "A" H-493)

(H.P. 1750) (L.D. 2399) Bill "An Act to Revise the Laws Concerning Cost Sharing for Maintenance of Railroad Grade and Highway Bridge Crossings"

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

PASSED TO BE ENGROSSED

Bill "An Act to Reform Provisions of the Civil Justice System" (S.P. 952) (L.D. 2520)

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

PASSED TO BE ENGROSSED

Bill "An Act to Include Certain Prisoners Within the Provisions of the Workers' Compensation Act" (S.P. 953) (L.D. 2525)

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

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

Representative HILLOCK: Mr. Speaker, I would like to pose a question to the Chair of this committee.

As I see this bill, it would allow convicts in our state facilities to receive workers' compensation -- I think it is new ground that they would be able to receive that. We have had legislation here before on it. My question now is, if a convict is on work release and injures himself escaping, would the state or the Workers' Compensation Insurance have to pay for his injury?

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

The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: We are talking about prisoners who are on legitimate work release, I don't think the question is very pertinent.

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

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: As I understand the current law, people who are on work release are in fact entitled to compensation.

The purpose of this bill is not to break new ground and offer Workers' Compensation to convicted incarcerated prisoners but rather to allow the State of Maine to participate in a new federal program which would enable employers to employ incarcerated prisoners in the State of Maine. In order for us to be eligible for the program, we have to conform with the federal guidelines which very clearly specify that these employees who are prisoners must in fact be eligible for Workers' Compensation under the statute in order to participate in this program. We felt this program was worthwhile and, therefore, a prudent thing for us to pursue.

Subsequently, the Bill was passed to be engrossed in concurrence.

PASSED TO BE ENGROSSED

Bill "An Act to Ensure Family Medical Leave in the State" (H.P. 1851) (L.D. 2534)

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

Representative Hepburn of Skowhegan offered House Amendment "A" (H-497) and moved its adoption.

House Amendment "A" (H-497) was read by the Clerk.

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

Representative HEPBURN: Mr. Speaker, Ladies and Gentlemen of the House: The bill before us, "An Act to Ensure Family Medical Leave in the State" has a very laudable intent and that is to provide time for people who have an illness or birth or adoption in the family to take time off from their work. Unfortunately, our bill is far too restrictive as it is written. It is very mandative and very punitive to the employers to the job climate in the State of Maine.

What House Amendment "A" would do would require that all employers have a policy on family leave in their place of employment. It is very much similar to the legislation we passed on smoking in the workplace a few years ago whereby we started with legislation and decided that that would be too strong and that the best route to take would be to require that employers have a policy.

There are problems with the bill as it is written. There are a tremendous number of costs that

are hidden in this, even though some of the more onerous provisions have been deleted. When an employee takes eight weeks off for whatever reason, the cost associated with hiring a new person to come in (if you can find one) and is a major, major problem in many areas of the State of Maine. If you can find someone who can come in to a workplace to work for only eight weeks or up to eight weeks and then with the understanding that they will be fired at the end of that time is a very, very difficult thing to do.

If you can find somebody, you are going to have to train the individual -- major costs there, training a person into a new job. Take for example the jobs we know here on the third floor of the State House, if one of these individuals was to take eight weeks off right now, how many people right off the street could come in and do some of the jobs in the Speaker's Office or the President of the Senate's Office or the Clerk's Office? These are very, very specialized jobs, require expertise and not just anyone can do them. That is the nature of our economy throughout the state, whether it be the public or the private sector. We pay people to do specialized jobs and training is becoming more expensive and more intensive as time goes on.

Another hidden cost to this is the lower initial productivity. Of course, while a person is involved in training, that productivity suffers greatly. In fact, probably by the time the eight week period is over, they would just be getting to a point where they might resemble the production of a normal worker and then they would be dismissed.

In cases where a replacement worker could not be found, the rest of the staff of a given organization has to somehow make up for the loss of that individual. Sometimes there will be costs in terms of overtime paid to other individuals. In many cases, jobs will simply be left undone.

We are putting the State of Maine in an incredibly bad position as far as our ability to compete with other states and indeed with other nations in our world economy.

What we seem to forget here in Maine is, we are not an island, we are up here in the corner of the United States and we tend to think of ourselves as being far away from the rest of the world and those problems don't really reflect much on us. But that is not true, ladies and gentlemen. We are part of a national economy and part of a global economy. Passage of the legislation, as is currently drafted without this amendment, will give Maine the most restrictive parental leave legislation in the country (I should say family leave) because it goes far beyond the scope of parental rights.

Only four other states have a bill similar to this at all.

What we always have to remember is, even though there is no legislation, there is family leave in the State of Maine right now. We had all kinds of employers come to us and say that, if people have a problem at home with their family, with an illness, a death, a birth or adoption, we give them time off. But right now that time off is negotiated between the employee and the employer. In fact, probably even as I stand here speaking today, at some workplace in the State of Maine, there is an employee and employer setting down and talking about a problem at home, how they are going to resolve that and how the employee can take time off in a time of family need. Family leave is happening right now and we don't need to codify specific benefits in the laws of the State of Maine.

However, since there are concerns about this, I think it is appropriate that we do have a policy, that we ask employers to have a policy on family leave so that the cards are on the table. The employers have to think about what they want to do, what kind of provisions they are going to make and the employees know what to expect and know what conditions they are working under. I think it is a very reasonable and straight forward proposal and I hope you will vote for it.

Mr. Speaker, I request a division.

Representative Zirkilton of Mt. Desert moved the Indefinite Postponement of House Amendment "A."

The same Representative also requested that the Clerk read the report.

Reports were read by the Clerk.

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

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: What House Amendment "A" in effect proposes to do is to eliminate the family medical leave act by simply stating that an employer must have a policy. That policy could be anything at all. That policy could be, we will have no policy. The policy could be that there would be no family medical leave at all.

Unlike the smoking bill which required a policy, a situation where if you walk into a restaurant and that restaurant does not have a designated "no smoking" area, you simply go to another restaurant to have your lunch or your dinner. Now we are talking about the job market. Jobs aren't that easy to find. You can't just go to a place and say, well they don't have the kind of family medical leave policy that I want so I think I will go find myself a job somewhere else. It is not that easy. We are talking about long-term situations here.

The gentleman has given you scenarios which I think are some of the finest arguments in favor of this bill that I have heard today. For example, what would happen if someone here, a member of the staff, who is vitally important to our daily operations, needed to take some kind of medical leave, what would we do? Well, we are faced with two situations, one we either allow that employee to take the time necessary to attend to the family medical needs or we say, you are too valuable and you may not go -- in which case the employee is faced with a situation -- their job or their family. People in Maine, people in any state, people in America should not be faced with a choice of their job or their family. The ability to spend time with a dying loved one should not be a negotiable issue. I don't think that is the kind of message we want to send to the people of this state.

I would urge you to realize that eight weeks is the maximum amount of time. Somebody may not need eight weeks, they may only need a few days or they may need a week here, a week there at a later time. It simply says that the State of Maine recognizes the importance of the family unit. We recognize the fact that, more and more, both parents are working and that requires greater demands on their time than ever before in our history. For that reason, we need to recognize those concerns and we should not be sending a message to the people of this state by not enacting legislation saying that your job is more important than your family because, in my opinion, it is not. I hope in your opinion it is not. Jobs are great, jobs are necessary, jobs provide us with the means to provide for our families but they are not and should never be more important than our families. For this reason, I urge you to indefinitely postpone this

amendment and allow this very important piece of legislation for Maine's people to get on its way.

The SPEAKER: The pending question before the House is the motion of Representative Zirnkilton of Mt. Desert that House Amendment "A" be indefinitely postponed.

Those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Hepburn of Skowhegan 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 Zirnkilton of Mt. Desert that House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 208

YEA - Aliberti, Allen, Anthony, Baker, Bost, Bott, Boutilier, Bragg, Carroll, Clark, H.; Clark, M.; Coles. Cote, Crowley, Daggett, Diamond, Duffy, Dutremble, L.; Erwin, P.; Farnum, Greenlaw, Gwadosky, Hale, Handy, Harper, Hichborn, Hickey, Holloway, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lord, Macomber, Mahany, Manning, Martin, H.; Mayo, McGowan, McHenry, McPherson, McSweeney, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Gara, Oliver, Paradis, E.; Paradis, J.; Parent, Paul, Perry, Pouliot, Priest, Racine, Rice, Richard, Rolde, Rotondi, Ruhlin, Rydell, Scarpino, Sheltra, Simpson, Smith, Soucy, Stevens, P.; Strout, D.; Swazey, Tamaro, Tardy, Telow, Tracy, Vose, Walker, Warren, Wentworth, Zirnkilton, The Speaker.

NAY - Anderson, Bailey, Begley, Bickford, Curran, Davis, Dexter, Farren, Foss, Foster, Garland, Glidden, Gould, R. A.; Hanley, Hepburn, Hillock, Jackson, Lawrence, Lebowitz, Look, MacBride, Marsano, Nicholson, Norton, Paradis, P.; Pines, Reed, Salsbury, Seavey, Sherburne, Small, Stevens, A.; Strout, B.; Tupper, Webster, M.; Weymouth, Whitcomb, Willey.

ABSENT - Armstrong, Brown, Callahan, Carter, Cashman, Chonko, Conley, Dellert, Dore, Gurney, Higgins, Hoglund, Kimball, Lisnik, Matthews, K.; Melendy, Rand, Reeves, Ridley, Stanley, Taylor, Thistle.

Yes, 90; No, 38; Absent, 22; Vacant, 1; Paired, 0; Excused, 0.

90 having voted in the affirmative, 38 in the negative, with 22 being absent and one vacant, the motion to indefinitely postpone did prevail.

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

PASSED TO BE ENGROSSED

Bill "An Act to Clarify Reporting Requirements under the Campaign Finance Laws" (H.P. 1856) (L.D. 2541)

Bill "An Act to Provide for Identification and Application of School Bus Purchase Reimbursement Funds" (H.P. 1858) (L.D. 2543)

Bill "An Act to Assist Agricultural Employers in Complying with Federal Hazard Communication Rules" (H.P. 1859) (L.D. 2545)

Bill "An Act to Continue State Benefits to Retired Teachers who have Joined a New Insurance Plan upon Retirement" (H.P. 1862) (L.D. 2547)

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

TABLED UNASSIGNED

Bill "An Act To Promote the Prompt and Peaceful Settlement of Labor Disputes" (Emergency) (S.P. 956) (L.D. 2531)

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

On motion of Representative Diamond of Bangor, tabled unassigned pending passage to be engrossed.

PASSED TO BE ENACTED

Emergency Measure

An Act to Make Allocations from the Maine Nuclear Emergency Planning Fund for Fiscal Year Ending June 30, 1989 (S.P. 837) (L.D. 2174) (C. "A" S-331)

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.

PASSED TO BE ENACTED

Emergency Measure

An Act to Correct Liquor License Fees (H.P. 1649) (L.D. 2257)

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.

PASSED TO BE ENACTED

An Act to Make Changes to the Public Utilities Law (S.P. 745) (L.D. 2004) (C. "A" S-333)

An Act to Prohibit the Display of Blue Lights on Vehicles Other than those Used by Authorized Law Enforcement Officers and Agencies (S.P. 795) (L.D. 2092) (C. "A" S-335)

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

Tabled and Assigned

An Act to Create a Single Point of Contact for the Operators of Commercial Vehicles (S.P. 796) (L.D. 2093) (C. "A" S-332)

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 specially assigned for Monday, March 21, 1988.

PASSED TO BE ENACTED

An Act Relating to the Weighing of Trucks (S.P. 819) (L.D. 2139)

An Act to Provide Volunteer Literacy Services for Maine Citizens (S.P. 876) (L.D. 2279) (C. "A" S-330)

An Act to Provide for Retail Inspection of Potatoes (H.P. 1447) (L.D. 1958) (C. "A" H-477)

An Act to Amend the Uniform Commercial Code (H.P. 1504) (L.D. 2054) (C. "A" H-469)

An Act to Provide for Child Care and Child Development Training for Student Parents (H.P. 1575) (L.D. 2150) (C. "A" H-474)

An Act to Increase the Effectiveness of the Public Utilities Commission through Computerization and to Provide Certain Exceptions from the Annual Regulatory Fund Assessment and from Filing Annual Reports and Certain Other Changes (H.P. 1630) (L.D. 2225) (H. "A" H-479 to C. "A" H-470)

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

Tabled and Assigned

An Act to Appropriate Funds for Replacement of Real Estate Tax Validation Machines in County Registries of Deeds (H.P. 1638) (L.D. 2237) (C. "A" H-476)

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 specially assigned for Monday, March 21, 1988.

ENACTOR

Tabled and Assigned

RESOLVE, to Name the New Bridge Between the Communities of Bucksport and Verona the "Dr. Edward Thegan Memorial Bridge" (H.P. 1669) (L.D. 2287)

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

On motion of Representative Swazey of Bucksport, tabled pending final passage and specially assigned for Monday, March 21, 1988.

FINALLY PASSED

RESOLVE, Regarding the Study of Low-Level Radioactive Waste in the Town of Greenbush (H.P. 1794) (L.D. 2458) (S. "A" S-338)

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

ORDERS OF THE DAY UNFINISHED BUSINESS

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

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

SENATE DIVIDED REPORT - Majority (10) "Ought to Pass" as amended by Committee Amendment "A" (S-336) - Minority (3) "Ought Not to Pass" - Committee on Judiciary on Bill "An Act Amending the Workers' Compensation Laws Exempting Design Professionals from General Civil Liability for Injuries on Construction Projects" (S.P. 238) (L.D. 657)
- In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be

engrossed as amended by Committee Amendment "A" (S-336)

TABLED - March 17, 1988 (Till Later Today) by Representative VOSE of Eastport.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

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

Committee Amendment "A" (S-336) was read by the Clerk.

On motion of Representative Vose of Eastport, Committee Amendment "A" was indefinitely postponed.

The Bill was assigned for second reading Monday, March 21, 1988.

TABLED AND TODAY ASSIGNED

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

RESOLVE, Concerning a Proposed Supreme Judicial Court Facility (Emergency) (H.P. 130) (L.D. 159)

TABLED - March 17, 1988 by Representative CARTER of Winslow.

PENDING - Adoption of House Amendment "A" (H-485) to Committee Amendment "A" (H-481).

On motion of Representative Diamond of Bangor, retabled pending adoption of House Amendment "A" (H-485) to Committee Amendment "A" (H-481) and specially assigned for Monday, March 21, 1988.

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

Bill "An Act to Provide Additional Appropriations to Continue the Dioxin Study" (S.P. 818) (L.D. 2138)

TABLED - March 17, 1988 by Representative DIAMOND of Bangor.

PENDING - Motion of same Representative to reconsider passage to be engrossed.

Subsequently, Representative Diamond of Bangor withdrew his motion to reconsider passage to be engrossed. Sent to the Senate.

The Chair laid before the House the following matter: Bill "An Act to Create a Noneconomic Damages Award Act" (H.P. 217) (L.D. 269) which was tabled earlier in the day and later today assigned pending further consideration.

(The Bill and accompanying papers were indefinitely postponed in the House on March 17, 1988.

Came from the Senate with the Minority "Ought to Pass" in New Draft under New Title Bill "An Act to Establish a Limit on Noneconomic Damages" (H.P. 1843) (L.D. 2523) Report of the Committee on Judiciary read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-342) in non-concurrence.)

Representative Paradis of Augusta moved that the House adhere.

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

Representative PARADIS: Mr. Speaker, Men and Women of the House: This issue has been before us twice now, in as many days. The issue and the bill that we now have presently before us is in a slightly different form. We have to consider an amendment that was adopted a few hours ago and is presently before us that narrows the issue down a little bit more. We have been at this for two and a half years really, not just two and a half days. It seems that the issue gets narrower and narrower and we have an opportunity to see exactly what the issues are becoming. That magnanimous liability insurance

crisis is narrowing down to be a cap and a cap just on malpractice regarding doctors/patients. Cut and run, leave all the others behind. That great coalition, that great consortium of 50 or 60 business groups is now narrowed down to the doctors.

It saddens me to say that this bill presently before us is in a lot worse form than the issues that we were considering the last two and a half days.

The letter that was handed out to you this morning by Medical Mutual, I gather that is the physicians' insurance company. In the last paragraph beginning with noneconomic cap, it states: "These caps have been successful in those states which have adopted them and they can't help but affect premiums in Maine as well."

Well, I wanted to share briefly with you this afternoon before this vote the issue that was brought up over and over again. I believe the good gentleman from Paris, a member of my committee, a signer of the Minority Report emphasized over and over again that Indiana, the Hoosier State, had adopted a cap several years ago and it had made a real difference in reducing malpractice insurance rates in that state.

Well, before we went to the St. Patrick's Day party last night, some of us did a little investigation as to that claim -- the Law Library had in its possession a General Accounting Office Report, which was requested by the Congress, called "Medical Malpractice - Six State Case Studies - Show Claims and Insurance Costs Still Rise Despite Reforms." On page 15 of the report, it gives the table of periods between 1980 and 1986, the most recent figures available. It deals with six states.

Let's take two. Let's take the beautiful state of Indiana and let's take the state of Arkansas. Now, Arkansas didn't put a cap, Indiana did put a cap. General practice - Arkansas's rate went up 58 percent; Indiana's rate went up 93 percent over the corresponding time. Internal medicine - Arkansas, 58 percent; Indiana again 93 percent. That is not a diminution, it isn't the rate going down, that is the rate of increase during that period.

Now, let's take the one that the proponents of this legislation have sought over and over again to use in order to put fear in our rural communities the issue of obstetrics and gynecology, the severe shortage of these physicians in the rural areas.

In Arkansas without a cap, the increase was 147 percent; in Indiana, 116 percent. I am laying it to you right on the line. There was no reduction in the rates for these people. What they gave away to the insurance carriers sounds an awful lot like what we were led to believe last November in the workers' compensation crisis. Not only did it not only mean "We can't guarantee a reduction but maybe the rate of increase might go down." Yes, from 160 percent increase request to 135 percent increase request as I believe the gentlelady from Waterville testified before us yesterday.

In Indiana, the rates have been rising 116 percent over a six year period. And that is what they got in return for making that severe adjustment of a \$100,000 cap and you are being asked this afternoon to consider a cap of \$500,000.

What really bothers me about this amendment is the fact that it creates a sort of a second-class citizenry. Now, if I have an automobile accident with the gentleman from Eastport, Mr. Vose, that is a tort, it's an accident between two people. I have a right to go into court with my insurance carrier and my lawyer -- we are first-class citizens, we are equal. But, if Mr. Vose (if I may use him as an example) is a physician and I get hurt through his malpractice and his problem, the rules don't apply

anymore, we have a new set of rules. The doctors can hurt you but they have a specific and a special waiver in the law. I can't understand, in the name of fair play, that that could be possible.

We can talk about constitutionality and so on and so on and I am not going to debate that point. I am not a judge, we are not judges, we are legislators, we are elected to vote, to serve -- let the courts decide those issues, it's a different branch of government, I don't believe in passing the buck. I do believe that this afternoon the issue is the same as it was on Wednesday, it is the same as it was yesterday when the gentleman from Waterville mentioned to you in real terms the problems and the deficiencies of their argument as to how it affected our constituents. The issue is the same this afternoon when we see that when they quote in general terms, they never use specific examples. I thought you all deserved specific examples. Examples of the General Accounting Office and the study that they did over the several states. The Congress requested that, I thought you had a right to know it. I am not going to deal in nebulous generalities. I thought you deserved to deal with specifics and the specific is, there will not be a reduction through a cap, not now, not next year, not five years from now, and the opposition knows that. They just hope to limit the rate of increase a little bit.

Well, I bought that argument in November because they had us over a barrel. We have done some real reform, we have made doctors take a good look at themselves and they are going to take a good look at themselves with peer review.

Yesterday, a bill was heard before Banking and Insurance about how insurance companies have the ability, (almost a monopoly) -- and there is a bill before them that the gentlelady from Brunswick, Representative Rydell, can speak more eloquently than I can about that might mean some meaningful reform. It will regulate banking, it will regulate the trucking industry, it will regulate the realty industry. We do very little to regulate the insurance industry.

I urge you this afternoon to stick to your guns. Maybe next week they might have another amendment that limits it to only doctors who practice in certain counties, they might have a certain legitimate beef, it's getting narrower and narrower. I urge you to stick to your guns and keep wearing the green as we did yesterday.

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

Representative MACBRIDE: Mr. Speaker, I move that we recede and concur.

Mr. Speaker, Ladies and Gentlemen of the House: In the last two days, I think we have heard many statistics, both from people who are for this cap on noneconomic damages and they have had figures to support the fact that it will help control the rates and lower them. Then, we have had those who are opposed and said it will not. But nothing has been done and something must be done.

This amended version of the bill is a much different bill from one that was debated Wednesday and Thursday. The \$500,000 cap on noneconomic damages applies only to cases in medical malpractice actions. The definition of economic damages has been clarified and expressly include any damages arising from the lost income for a person who must give up work to take care of an injured relative and who provides custodial care.

This bill is essential to the continued delivery of adequate medical services in the State of Maine especially in the obstetrical and surgical services.

You and I all know of doctors who have given up their practices of delivering babies or are retiring early because of their expensive malpractice insurance costs. We must have physicians in this state if we are going to have adequate health care. We are not going to have physicians if their malpractice insurance costs continue to rise and they are having more lawsuits with higher judgments against them. Nothing else has happened to solve this problem.

Today I hope you will support this amended bill with the cap on medical malpractice actions only and only for five years, ladies and gentlemen. It will sunset at the end of five years and we will know at that time how cost effective it has been. I hope that we can take this step today to ensure adequate health care.

Mr. Speaker, I request 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 Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: I would urge you to vote against the motion to recede and concur. I would like to disagree with the assertions by the previous speaker that this legislature and those prior to ours have not done anything to address this issue. We in fact have. As a matter of fact in 1986, we enacted several medical malpractice reforms that I believed, at that time, would lead to a capping of the rates that would be charged to our doctors for their medical malpractice and, in fact, have not done that. We limited statutes of limitations so that someone that believes they have been injured by a doctor has only three years to bring suit whereas, if you have been injured in any other way by professions in our society, you have six years to bring a suit. We also established pre-litigation screening panels that would allow people to get rid of frivolous suits immediately without having to go through costs of a lengthy court appearance. So we have done several things in an effort to reduce the amounts of monies that doctors would have to pay in medical malpractice insurance.

The most important thing that we did according to the insurance industry, when we were working on this bill was, we established structured awards. In other words, if you were granted an award as a result of a jury trial that exceeded \$200,000, rather than say insurance companies had to pay you that award right up front, they were allowed to do it in a structured manner.

One other thing that I would like to mention is, while the insurance and the Trafton Commission was receiving information to make their informed decision regarding caps, we heard testimony from the now Commissioner Edwards of the Bureau of Insurance. At no time in his testimony did he suggest caps were to be a way to address the escalating malpractice insurance award.

I called the Bureau of Insurance this morning because I wanted to know after the legislature had passed these tort reforms in the 112th if those

measures, the structured awards, the pre-litigation screening panels etcetera had reduced medical malpractice rates. If they hadn't reduced them, had they at least put a lid on those costs? In July of '87 -- now this is after we enacted medical malpractice reform, there was a 30 percent increase by St. Paul's and in September of '87, a 15.9 percent increase by Medical Mutual of Maine. So, after extensive work by the Judiciary Committee in this Legislature in an effort to cap those rising insurance costs, what we have done is limit the ability of people to bring suit against the medical profession but, in fact, it has not resulted in any savings whatsoever. As a matter of fact, those rates have continued to increase. So, rather than enact another piece of meaningless tort reform, I would urge you to vote against the motion to recede and concur.

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

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to support the motion to recede and concur. Maine probably is never going to be in the position of having a surplus of physicians, nurses, and other health care workers. If we are to attract health care workers to the rural area in Maine, we simply must continue to watch these costs.

Our costs in Maine are even higher than those in New England, even those in Massachusetts. I know the doctors in my part of the state cannot afford to continue to pay amounts ranging from \$5,000 to \$60,000 a year, they have to have insurance.

Doctors fees under Medicaid have been frozen for eleven years, under Medicare for four years. Their insurance premiums have tripped in eight years. A \$20,000 premium in 1980, today is \$60,000. That is why they are giving up delivering babies. This cap will give some insurance premium relief.

No, it won't decrease insurance premiums, no one has ever claimed that it would decrease insurance premiums. This issue has been studied and debated to death. It is now time for us to be positive. I urge you to support the motion to recede and concur.

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

Representative BEGLEY: Mr. Speaker, Men and Women of the House: I rise to urge you to support the recede and concur motion.

Two-thirds of the doctors in this state are insured by their own companies and the doctors who set the rates for over 1100 Maine doctors have found it necessary to set high premiums to pay an increasing number of claims. Rates for doctors are primarily based on a loss experience of Maine doctors. Medical malpractice insurance premiums have become a real problem for our medical health field, as has been brought out by two of the speaker's here this morning and we have talked about it before.

The doctors are leaving, retiring early from the field and, those in the profession, are also faced with decisions of how many tests to give and because of this fear of being sued. I think that that is something that affects all of us. When this occurs and is passed onto all of us, I therefore think that the \$500,000 noneconomic is a fair proposal, twice the amount that was put in the original bill.

I urge you to support the motion to recede and concur.

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

Representative RYDELL: Mr. Speaker, Men and Women of the House: There are a couple of important

points which we must remember before we cast our vote today.

I, too, called the Bureau of Insurance this morning because I wanted to check, when I received this letter from Medical Mutual, exactly what this situation was. There are many aspects that go into studying the rates by Medical Mutual or any other insurance company. You have to remember that Medical Mutual started in 1978 and, at that time, it had to base its data on all national actuarial data. It is true that they have begun to be able to rely more on Maine experience but they will never be able to stop blending in country wide experience.

However, as they rely more on Maine experience, the Bureau is looking into their reserves. It is quite possible that Medical Mutual has been from the beginning and still is very conservatively in the reserves, over-reserving. The Bureau is taking a look at that and, based on Medical Mutual, it may not be necessary based on Maine experience that we now have and have been collecting since 1978, to have these large reserves. We don't know that yet and we won't know that until the Bureau has completed its studies in which they will also be using outside actuaries and consultants.

Secondly, the purpose of a cap is supposed to be to reduce the number of large number of damage awards. In order to reduce that, we would have to have a large number of those damage awards. We have all heard that we have very, very few of those in Maine. I don't think that any of us want to inflict undue additional suffering on those very few Maine citizens who may very well need and be entitled to an award over that \$500,000.

Thirdly, I submit to you that a cap of \$500,000 will send a very strong message to the citizens of Maine, to people who are injured that that is the figure that the Maine Legislature thinks is appropriate and that, quite the contrary to what the supporters of this bill want to see happen, the opposite will happen, that people will be inclined to move their suits to ask for awards that are closer to that \$500,000 cap than what is now happening. That ceiling will become more the norm and I believe that there is evidence from other states to show that that would be true.

Fourthly, many states are struggling with malpractice problems and this issue is being studied by many states. Indeed, when I looked over a list of the states that are now considering malpractice reforms, they are no longer considering caps. They are looking at other alternatives. They are looking at mandatory arbitration on small claims because the proliferation of small claims adds tremendously to the cost. They are looking at some expanded immunities for certain types of physicians, they are looking at a type of settlement, a no-fault settlement, for certain types of injuries, particularly in infants.

Yes, we must do something but there are other alternatives that we must look at and we must not make the mistake of going towards an alternative which other states are already rejecting. We have to do the right thing here in Maine.

I would ask you to please vote against the pending motion.

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

Representative HANLEY: Mr. Speaker, Men and Women of the House: Just indulge me for a minute. This might possibly be my last time I will get up on the floor of the House this session. I have had just about had all I can take for this term.

I would like to correct the Representative from Washington, Representative Allen's, comments. In 1986, the legislature actually extended the Statute of Limitations from two years to three years for adults. They did reduce from 20 years to 6 years, the time period minors could bring a suit. So, in all actuality, for most medical malpractice cases, the Statute of Limitations were extended.

I would like permission to pose a series of questions through the Chair?

The SPEAKER: The Representative may pose his questions.

Representative HANLEY: To any attorney who would like to answer -- hypothetically, if I was involved in an action with a doctor who did not carry insurance and I came to you on a contingency basis, would you take my case?

The SPEAKER: The Representative from Paris, Representative Hanley, has posed a question through the Chair to any member of the legal profession who may respond if they so desire.

The Chair recognizes the Representative from Scarborough, Representative Warren.

Representative WARREN: Mr. Speaker, Ladies and Gentlemen of the House: To answer the question, would I as a lawyer take a case like that -- I would only take it if there had been physician negligence.

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

Representative HANLEY: Mr. Speaker, Men and Women of the House: So, am I correct in assuming even though this doctor had no liability insurance and there was no other third party that could be taken in and there was no possibility for me to get any monetary award by going to trial, would you still take the case and would we still go to trial?

The SPEAKER: The Representative from Paris, Representative Hanley, has posed a question through the Chair to any member of the legal profession who may respond if they so desire.

The Chair recognizes the Representative from Scarborough, Representative Warren.

Representative WARREN: Mr. Speaker, Ladies and Gentlemen of the House: First of all, as the Representative from Paris probably knows, medical malpractice cases are a major headache. They take a year and a half or two years to litigate and they sometimes take \$30,000 or \$40,000 in out-of-pocket costs. For that reason, serious injuries have to be present to take a case.

I guess in that case, you would have to examine whether the wrongdoing party who caused the serious injury to the patient had any assets available, whether it be a house or insurance policies or other assets, personal savings or whatever.

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

Representative HANLEY: Mr. Speaker, Men and Women of the House: The point I am trying to make is that I think we are being hypocritical here on the floor of the House today. If a doctor does not have insurance or does not have the assets to take care of the damage that was incurred, I would be left without. Yet, on the other hand, if this doctor had insurance with no caps on any type of damages, I could receive a million dollars on an award.

Ladies and gentlemen of the House, is this fair for one individual, just because a doctor does not carry insurance or did not have any assets, to receive nothing? But, if I had gone to another doctor, who had insurance or who had some assets or there was another third-party who could be taken in, I would receive a million dollars.

This is not a perfect world we live in, I wish that it could be so, but there are some realities that we have to face here in the House today. I must admit I stand here frustrated and disillusioned with the process today. I, too, am not very happy that we have limited the medical malpractice. I don't know, after spending two and one-half months in committee trying to work this out and having resolved in my own mind that the best way would be to spread it out, not only in the medical field but also the small businessman and any other type of service organization. Something has to be done. I don't think the option is just to wait and sit around and see what happens.

I hope that you will support the motion to recede and concur.

The SPEAKER: The pending question before the House is the motion of the Representative from Presque Isle, Representative MacBride, that the House recede and concur.

The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, I request leave of the House to pair my vote with Representative Cashman of Old Town. If he were present and voting, he would be voting nay; I would be voting yea.

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

Representative NICHOLSON: Mr. Speaker, I request permission to pair my vote with the Representative from Portland, Representative Conley. If Representative Conley were present, he would be voting nay; I would be voting yea.

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

Representative CLARK: Mr. Speaker, I request permission to pair my vote with the Representative from Portland, Representative Gurney. If he were here, he would be voting nay; I would be voting yea.

The SPEAKER: The pending question before the House is the motion of the Representative from Presque Isle, Representative MacBride, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 209

YEA - Aliberti, Anderson, Bailey, Begley, Bickford, Bott, Boutilier, Bragg, Callahan, Clark, H.; Davis, Dexter, Duffy, Farnum, Farren, Foss, Foster, Garland, Glidden, Greenlaw, Hanley, Harper, Hepburn, Hichborn, Hillock, Holloway, Jackson, Lawrence, Lebowitz, Look, Lord, MacBride, Macomber, McGowan, Mills, Murphy, T.; Norton, Nutting, Paradis, E.; Parent, Paul, Pines, Pouliot, Racine, Reed, Rice, Rolde, Ruhlin, Salsbury, Seavey, Sherburne, Small, Stevens, A.; Strout, B.; Telow, Tupper, Webster, M.; Wentworth, Weymouth, Whitcomb, Zirnkilton.

NAY - Allen, Anthony, Baker, Bost, Carroll, Coles, Cote, Crowley, Curran, Daggett, Diamond, Dutremble, L.; Erwin, P.; Gould, R. A.; Gwadosky, Hale, Handy, Hickey, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Mahany, Manning, Marsano, Martin, H.; Mayo, McHenry, McSweeney, Michaud, Mitchell, Moholland, Murphy, E.; Nadeau, G. G.; Nadeau, G. R.; O'Gara, Oliver, Paradis, J.; Paradis, P.; Perry, Priest, Richard, Rotondi, Rydell, Scarpino, Sheltra, Simpson, Smith, Soucy, Stevens, P.; Strout, D.; Swazey, Tamaro, Thistle, Tracy, Vose, Walker, Warren, The Speaker.

ABSENT - Armstrong, Brown, Carter, Chonko, Dellert, Dore, Higgins, Hoglund, Kimball, Lisnik, Matthews, K.; McPherson, Melendy, Rand, Reeves, Ridley, Stanley, Taylor, Willey.

PAIRED - Cashman, Clark, M.; Conley, Gurney, Nicholson, Tardy.

Yes, 61; No, 64; Absent, 19; Vacant, 1; Paired, 6; Excused, 0.

61 having voted in the affirmative and 64 in the negative with 19 being absent, 1 vacant and 6 paired, the motion to recede and concur did not prevail.

Subsequently, the House voted to adhere.

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

Representative DIAMOND: Mr. Speaker, having voted on the prevailing side, I now move reconsideration and ask you all to vote against me.

The SPEAKER: The Representative from Bangor, Representative Diamond, moves that the House reconsider its whereby the House voted to adhere. Those in favor will vote yes; those opposed will vote no.

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

(Off Record Remarks)

On motion of Representative Manning of Portland, Adjourned until Monday, March 21, 1988, at nine o'clock in the morning.