

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Thirteenth Legislature

OF THE

State Of Maine

VOLUME IV

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HOUSE & SENATE LEGISLATIVE SENTIMENTS

December 3, 1986 to December 6, 1988

**ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
65th Legislative Day
Thursday, April 14, 1988**

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

Prayer by Major Walter Douglass, Salvation Army, Augusta.

The Journal of Wednesday, April 13, 1988, was read and approved.

Quorum call was held.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Clarify the Standard of Proof in Prelitigation Screening Panels" (Emergency) (S.P. 711) (L.D. 1941) which was passed to be engrossed as amended by Committee Amendment "A" (S-395) as amended by House Amendment "A" (H-675) thereto in the House on April 12, 1988.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-395) as amended by House Amendment "A" (H-675) and Senate Amendment "A" (S-452) thereto in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Require Licensure of Certain Railroad Personnel" (H.P. 1748) (L.D. 2397) which was passed to be engrossed as amended by Committee Amendment "A" (H-645) in the House on April 8, 1988.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-645) as amended by Senate Amendment "B" (S-453) thereto in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Improve Services for Maine's Elderly" (S.P. 943) (L.D. 2490) on which the Majority "Ought Not to Pass" Report of the Committee on Taxation was read and accepted in the House on April 12, 1988.

Came from the Senate with that Body having insisted on its former action whereby the Minority "Ought to Pass" Report of the Committee on Taxation was read and accepted the the Bill passed to be engrossed as amended by Senate Amendment "A" (S-432) and asked for a Committee of Conference in non-concurrence.

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

ORDERS

On motion of Representative KETOVER of Portland, the following Joint Resolution: (H.P. 1924) (Cosponsors: Speaker MARTIN of Eagle Lake and President PRAY of Penobscot)

JOINT RESOLUTION COMMEMORATING YOM HASHOAH,
THE "DAYS OF REMEMBRANCE" OF THOSE WHO SUFFERED
AS VICTIMS OF NAZISM

WHEREAS, 43 years ago, 6 million Jews were murdered in the Nazi Holocaust as part of a systematic program of genocide and millions of other people suffered as victims of Nazism; and

WHEREAS, the people of the State of Maine should always remember the atrocities committed by the Nazis so that such horrors are never repeated; and

WHEREAS, the people of the State of Maine should continually rededicate themselves to the principle of equal justice for all people, remain eternally vigilant against all tyranny and recognize that bigotry provides a breeding ground for tyranny to flourish; and

WHEREAS, April 14, 1988 has been designated internationally as a Day of Remembrance of Victims of the Nazi Holocaust, known as Yom Hashoah; and

WHEREAS, the national community pursuant to an Act of Congress will be commemorating the week of April 11th through April 17th as the "Days of Remembrance" of the victims of the Nazi Holocaust; and

WHEREAS, it is appropriate for the people of the State of Maine to join in this international commemoration; now, therefore, be it

RESOLVED: That We, the Members of the 113th Legislature of the State of Maine now assembled in Second Regular Session, on behalf of the people we represent pause in solemn memory of the victims of the Holocaust, and urge one and all to recommit ourselves to the lessons of the Holocaust through this international week of commemoration and express our common desires to continually strive to overcome prejudice and inhumanity through education, vigilance and resistance; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the United States Holocaust Memorial Council in Washington, D.C., on behalf of the people of the State of Maine.

Was read.

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

Representative KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: This 43rd Holocaust Remembrance Day is a day that has been set aside for remembering the victims of the holocaust and for reminding Americans of what can happen to civilized people when bigotry, hatred and indifference reign.

In early 1945, a Lieutenant Colonel and chief of a liaison for General Eisenhower's staff, was in a room in a Paris headquarters where he saw a red arrow pointing to a sign. It said, "Death Camp." Immediately it flashed through his mind, "Death Camp" it can't be a cemetery, it must be a murder camp, and the victims must be Jews, a death camp to murder Jews.

The allied liberation of the first Nazi death camps is one of the most important events of the war. Yes, and there is always the possibility that someone in the future might claim that no such extermination ever took place and that it was all war propaganda. It is important the world knows the Nazi's deliberately, scientifically annihilated Jews in enormous numbers. The Nazi's killed 6 million Jews, non-Jews, as well as thousands of children.

By marking this 43rd year since the Holocaust, gives a message that another holocaust must never, never be allowed to happen again.

As a second generation in America, my prayer is that we always solve the problems in the Middle East, that there will be peace and that we will never forget.

Subsequently, the Resolution was adopted and sent up for concurrence.

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative MANNING from the Committee on Human Resources on Bill "An Act to Substantially Revise the Driver Education Evaluation Program" (Emergency) (H.P. 1838) (L.D. 2515) reporting "Leave to Withdraw"

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

CONSENT CALENDAR

First Day

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

(H.P. 1775) (L.D. 2428) Bill "An Act to Increase the Frequency of Restaurant Inspections" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-689)

(H.P. 1694) (L.D. 2327) Bill "An Act to Promote the Creation and Expansion of Independent Living Opportunities for Maine's Citizens with Disabilities" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-691)

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

SECOND READER

Later Today Assigned

Bill "An Act to Amend the Motor Vehicle Laws and to Allocate Funds to the Division of Motor Vehicles" (Emergency) (H.P. 1930) (L.D. 2630)

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

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

PASSED TO BE ENGROSSED

As Amended

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Washington County for the Year 1988 (Emergency) (H.P. 1931) (L.D. 2631)

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-692) and moved its adoption.

House Amendment "A" (H-692) was read by the Clerk and adopted.

The Resolve was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Preserve Existing Rental Units which have been Constructed with Federal Assistance and Tax Benefits for Moderate-Income and Low-Income People" (H.P. 1693) (L.D. 2322) (C. "A" H-679)

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

On motion of Representative Crowley of Stockton Springs, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-679) was adopted.

The same Representative offered House Amendment "A" (H-693) to Committee Amendment "A" (H-679) and moved its adoption.

House Amendment "A" (H-693) to Committee Amendment "A" (H-679) 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 "A" as amended by House Amendment "A" thereto and sent up for concurrence.

PASSED TO BE ENACTED

Emergency Measure

An Act to Create a Home-Based Treatment and Education Demonstration Program for Persons with Mental Illness and their Families (S.P. 898) (L.D. 2334) (S. "A" S-442)

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. 104 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 Errors and Inconsistencies in the Laws of Maine (S.P. 950) (L.D. 2521) (C. "A" S-404)

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. 104 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 Regulate the Use of Oxen, Pony and Draft Horse Competitions (H.P. 1565) (L.D. 2132) (C. "A" H-642)

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. 105 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 Improve the Linked Investment Program for Agricultural Loans (H.P. 1718) (L.D. 2357) (C. "A" H-646)

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 Make Changes in the Laws Concerning Licensed Maine Guides and Related Laws (H.P. 1767) (L.D. 2420) (H. "A" H-654 to C. "A" H-611)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED
Emergency Measure

An Act to Amend the Rehabilitation System under the Workers' Compensation Act (H.P. 1915) (L.D. 2614) (S. "A" S-416; H. "A" H-614; H. "B" H-657)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 108 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR
Emergency Measure

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of York County for the Year 1988 (H.P. 1927) (L.D. 2627)

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

On motion of Representative Ridley of Shapleigh, under suspension of the rules, the House reconsidered its action whereby L.D. 2627 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-694) and moved its adoption.

House Amendment "A" (H-694) was read by the Clerk and adopted.

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

PASSED TO BE ENACTED

An Act to Amend the Maine Tort Claims Act (S.P. 932) (L.D. 2443) (C. "A" S-433)

An Act to Provide Regulatory Oversight of Over-the-Road and Over-the-Rail Transportation of Hazardous Materials and to Increase Revenue to the Maine Hazardous Waste Fund and the Maine Coastal and Inland Surface Oil Clean-up Fund (S.P. 955) (L.D. 2533) (S. "A" S-435 to C. "A" S-426)

An Act Relating to the Maine Uniform Transfers to Minors Act (H.P. 642) (L.D. 865) (H. "A" H-615; C. "A" H-602)

An Act to Prohibit the Establishment of Docking Condominiums on Tidewaters, Lakes and Great Ponds (H.P. 1671) (L.D. 2289) (S. "A" S-436 to C. "A" H-585)

An Act to Amend the Requirement that Counties Contribute to the Support of the Superior Courts and the Supreme Judicial Court (H.P. 1677) (L.D. 2306) (C. "A" H-647)

An Act to Establish On-Site Day Care at the Capitol Complex (H.P. 1678) (L.D. 2307) (S. "A" S-425 to C. "A" H-625)

An Act to Consolidate State Land Use Statutes into the Natural Resources Protection Act (H.P. 1687) (L.D. 2316) (S. "A" S-437 to C. "A" H-641)

An Act to Extend and Strengthen the State's Mandatory Shoreland Zoning Laws (H.P. 1731) (L.D. 2374) (H. "A" H-650 to C. "A" H-597)

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 Prohibit the Sale of Polystyrene Foam Products Containing or Made with Certain

Chlorofluorocarbons (H.P. 1797) (L.D. 2461) (S. "B" S-422 to C. "A" H-596)

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

On motion of Representative Michaud of East Millinocket, 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 matter of Unfinished Business:

An Act Relating to 6-Axle Vehicles Carrying General Commodities (H.P. 1919) (L.D. 2618)

TABLED - April 12, 1988 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

Representative Racine of Biddeford moved that the rules be suspended for the purpose of reconsideration. (Objection to suspension of the rules).

The SPEAKER: There being objection to suspension of the rules, the Chair will order a division.

The pending question before the House is the motion of Representative Racine of Biddeford to suspend the rules for the purpose of reconsideration. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

43 having voted in the affirmative, 53 in the negative, the motion to suspend the rules did not prevail.

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

Representative RACINE: Mr. Speaker, point of order. Would it be proper to ask for a roll call?

The SPEAKER: The Chair would answer in the negative.

Representative Racine of Biddeford moved the Bill and all accompanying papers be indefinitely postponed.

Representative Moholland of Princeton requested a roll call vote on the motion to indefinitely postpone.

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 Princeton, Representative Moholland.

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to stand up here and argue all day long because we want to try to get home by the 20th if we can.

This bill passed both Houses with a large majority. Therefore, I see no reason to allow this bill to be amended or not passed. I hope you vote not to indefinitely postpone.

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

Representative KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: I have told you before and I am going to try and tell you again why we should indefinitely postpone this bill.

First of all, I have done some more checking and I have talked with a lot more people and I found a lot more reasons why I am still feeling that I am absolutely right. First of all, they tell me that there is only going to be maybe 200 to 500 more trucks on the roads. I submit to you that is not correct. Maybe this year or next year, but down the road, you are going to see a 1,000, 1,000 more trucks going on secondary roads and secondary bridges, 100,000 pounds with another axle, an axle that weighs ten ton. Now, small trucks only weigh ten ton. That is four more tires making impact, contact with that road and that bridge.

I have talked to the State Police and I asked them why they came to the committee in a neither/nor position. They said that is what we usually do, we don't try to take anything in opposition. But he said to me (I have his name here) that he agreed with my position and that I was correct. It is very difficult to enforce because what has happened is the truck drivers -- believe me I am truly in favor of the trucking business and trucks coming into the state because I know we need them. We have lost our railroads, without those trucks, we will not survive. I want it done in a safe way so nothing will harm our roads or our people. He said to me, I am concerned about the brakes. I spoke with AAA, they said the same thing, they are concerned about the brakes. What they do is, they release the front brakes because they say they would like to prevent the truck from jackknifing.

In Massachusetts, there was an article in the Boston Herald, April 4, 1988 and it says, "Beware of 18-wheel terrorists." On WBZ in Massachusetts, it says, "Seventy-two percent of all accidents are caused by overweight trucks." They have a real problem with those overweight trucks.

New Hampshire -- now we want these trucks to go down to New Hampshire and through Massachusetts -- you can't take all commodities into New Hampshire, you have got to buy a booster.

The major problem I have with this is, what is the fiscal impact on our roads and our bridges in our state? No one, no one has given me that answer, because they don't know.

They tell me that they are going to put a fee on these trucks and that could possibly raise \$100, \$150, maybe more. That is not going to be enough because we don't know.

I told you about the impact of those four more tires making contact with those roads. Those roads were never built to hold that kind of weight, nor were those bridges. Are they going to put a little hot tar on the potholes that are on those roads? Are they going to resurface them? How are they going to construct them? They now have soft shoulders, that is dangerous for a truck.

Who is responsible for one of your cars falling into that pothole? Is it the truckers? I think not. Is it the town or the state? Possibly. Who is going to pay for the damage if you wreck your car or you actually get hurt? AAA tells me the one thing that they are concerned about is the bridges because of the climate that we live in, the elasticity of those bridges in the climate -- it is cold, it stretches and it shrinks and it stretches and shrinks and they are not built to take that kind of weight.

I tried to tell you all of these things because I am concerned, I am worried that this is a bad way to go.

The other thing that I was informed about was that the committee is going to be studying this whole issue. I tell you right now, I will put a bill in next year to put the trucks back to 80,000 pounds,

all trucks -- north, south, west, east, before I would allow this bill to go through. That is how serious I am about this. They tell you it is going to hurt the economy of this state. No. Let's study it, let's come up with a good solution before we put something bad on the roads.

The federal government did a wonderful thing, they allowed double bottoms into this state. For years, we never allowed them but they are here now and they are more dangerous. Let's not make a mistake and allow this to happen. I can just see these thousands of trucks rolling down Route 1 or any of those secondary roads in through those little towns who have never seen so many trucks and we have never seen so many trucks -- we are dealing with this problem now.

I told you the other day I played a game and I counted, in an hour, 150 trucks. When I go down the road now, I don't look for billboards now because I know we banned them but I am counting all the trucks and reading all the names, it is a game. I have never seen half of those trucks before. But we need them. We haven't brought the railroad back, until we do, we need those trucks, we couldn't live without them, but I think we can do it on 80,000 pounds.

Let me tell you something. 80,000 sounds like a decent weight but I guarantee you they are putting 100,000 pounds and more on those trucks, they are overweight now. If I let them go to 100,000, I guarantee you they will go 125,000 and 135,000 pounds. I will guarantee that.

We don't have enough state police out there to enforce this. If we did, maybe we wouldn't have this problem. The Transportation Committee will tell you that this is a good thing to do. They have been told that this is a good thing to do and that concerns me too. Why? Why are they told that the DOT wants this bill?

Ladies and gentlemen, give them a chance to study it, give them a chance to come up with something that makes sense. I know that we could all go home after this session and sleep and feel that we have done the right thing.

Why have we tabled this? Because we have been trying to find out the information. We keep tabling day after day hoping to get that information. No one seems to come forward. They are out there lobbying you -- isn't that interesting? They are out there telling you that this is a good thing to do, that it will hurt the economy of this state. It hasn't been proven to me. I only see a fiscal impact. I see that this is going to cost me money, it is going to cost my constituents money for people to run their trucks, to make potholes, to ruin my roads. I am not ready to allow that to happen. I am not ready to allow one of you or anyone out there to be the first victim when a bridge goes down from those overweight trucks.

I would hope that you would please indefinitely postpone this bill and all its accompanying papers and give us some time to put some wisdom into this and come up with a sound solution.

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I want to make sure that this body fully understands what the implications of this bill are. I don't know if you realize this or not but now you cannot use the Interstate Highway if you exceed 80,000 pounds. By law, the only place that you can drive a vehicle, if you exceed 80,000 pounds, is on the main secondary roads, you cannot be on I-95.

What is going to happen is that (based on what we have heard when we debated the gas bill) is that our highways are in such bad shape that we need a major renovation program. Basically, this has been caused by overweight vehicles. If you look at I-95, we do not need a major overall program because the federal government has been able to control the weight and the damage that is being done on the interstate. If somebody here will get up and tell me that the main secondary roads are better built than I-95 and can prove that, then I might go along with this bill. I don't believe anyone can get up and make those statements and comments.

So, what we are saying is that, if you travel on a secondary road that is affected by -- as the good Representative from Princeton said the other day -- Jack Frost, it means that you are putting additional weight on roads that are thawing out. This is what is causing the damage to secondary roads.

If we allow commodity trucks to carry 100,000 pounds, they will not be able to travel on the interstate. All of that running around will be on secondary roads.

I would like to take you back to June 3rd of 1985 when Representative Neil Rolde presented a bill that we man the weigh station in Kittery on a 24 hour basis. Those of you that were here, if you remember the debate, the federal government spent millions of dollars to build two weigh stations, one going south and one going north. People were very upset that those weigh stations were not being manned more than once a week. It was sort of a hit and miss and, in order to protect our roads, Representative Rolde presented a bill that would mandate that the weigh stations be manned on a 24 hour basis. This was rejected by this House on the basis that, if we established a 24 hour weigh station, that the vehicles coming into the state would not, would not, go through that station but would utilize the secondary roads.

Let me quote to you from the Record what Representative Moholland said at that time. I think it will enlighten you. The debate basically was that we have a lot of vehicles -- the State of Maine allowed 88,000 pounds. However, when you carry 88,000 pounds, you are not supposed to go on the interstate. So basically what was being said was that vehicles coming in overweight would not go through the weigh station in Kittery but would come in on Route 1 and Route 9 and so on. But, let me quote to you (this is sort of ironic) -- this is a direct quote from Representative Moholland on June 3rd during a debate. I am not going to repeat everything he said but I am just going to come out with what is pertinent to what we are talking about, damaging of roads. I quote from Representative Moholland. "So, what I am trying to tell you, ladies and gentlemen, if you go up through to York, no matter whether you weigh 88,000 or weigh 80,000, if you man that every day, you are going to lose money and you are going to have a disaster with trucks going in all directions down Route 1, down Route 9, up towards Rochester, New Hampshire and down 125 and down to Route 4. We are going in all directions. We are going to tear up all of the main highways. We are going to be in more serious trouble than we are right now and this is what we are trying to prevent."

Now, let me quote to you Representative Soucy's comment in response to that. Representative Soucy was recognized by the Speaker and he said, "Mr. Speaker, Ladies and Gentlemen of the House: A couple of comments that the Representative from Princeton made, he mentioned about the roads being torn up,

this is exactly the reason we want the scales so that the roads will not be torn up."

At that time, we were talking about 80,000 pounds and 88,000 pounds. This bill would increase it to 100,000. Does that make sense to you? It sure as heck doesn't make any sense to me.

I am not a trucker and I can see why a trucker would be fighting for this because it is to their advantage. What this will do, and I don't care which way you look at this, we are going to be tearing up the main roads. If they are in such a deplorable condition, we certainly should not increase the weight.

You are probably going to hear some other people get up here and say the commodity haulers are the good guys, they comply with the law. If they do, why was there so much objection in 1985 when we wanted to man the scales in Kittery on a 24 hour basis? Are these the good guys? Think about it.

The other fact that I wanted to address is safety. The more weight you carry, the more difficult it is to stop. If you push or pull a heavy load, you have more difficulty to stop. I tried to get from the Highway Safety Division some figures as to what would be the length of stoppage involved if you carried 88,000 pounds to 100,000 pounds and I was not able to get that but they said that it is reasonable that if you hit the brakes, the heavier the weight, the further you go.

I also tried to get some figures, which I was unable to obtain, as to the number of trucks that were involved in accidents on our highways. It seems that every day when you pick up the paper, you read that a truck overturned on the Maine Turnpike or a secondary road or a truck blocking traffic.

If you want to further deteriorate our roads, then I would suggest that you follow Representative Moholland's suggestion that we don't kill this bill. But, if you want to protect our roads, keep them in good condition -- why do you think the federal government has imposed an 80,000 pound restriction on the interstate? For longevity, there is no question about that.

I would hope that you would take the interest of all the citizens of this state to make sure that our roads are not further deteriorated by increasing the weights of vehicles and that includes commodities.

I had an amendment I thought would take care of it but I was not able to present it because people objected. People that objected have a vested interest in this, there is no question about it. Think about that.

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

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I would like to thank my good friend, Representative Racine, for tearing me all apart.

There is one specific reason that those trucks are going around Routes 9 and 125 and it is the simple reason they have a law regarding the federal highway that, if you are over 80,000, they take the whole truck back to 73,280.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: It is not very often that I get up on the floor of these chambers and speak on transportation issues. I have never concerned myself with those issues because of the nature of the department's financial structure. However, having since served as Chair of the Task Force on Railroads looking into the transportation issue, I have learned

some information that frankly scares the dickens out of me.

The good Representative from Portland, Representative Ketover and Representative Racine from Biddeford have touched on the heart of the issue.

I would like to pursue the fiscal irresponsibility of allowing this bill to become law. There has been no cost allocation study to substantiate the partial fiscal note that appears on the bottom of this bill. I have communicated with the Transportation Department people and asked them to give me a more accurate fiscal note. The answer that I got back was and I quote, this is from Jane Lincoln, Assistant to the Commissioner, "You have asked me to determine a dollar amount attributable to the additional pavement consumption resulting from L.D. 2264 which has since been rewritten because of a technical problem. As I mentioned above, the impact is negligible. However, the state of the art cannot in any accurate fashion provide this information within a reasonable time, a time-frame for your purpose, emphasis, my own." In other words, it can be done but they need time.

I would urge this House to follow the recommendations of Representative Ketover and Representative Racine and to postpone this bill until we can get a true fiscal impact note.

I have here before me a copy of several studies. There was a cost allocation done in 1962. However, it is my understanding the results were never implemented. Some information was extrapolated from the 1982 cost allocation study and a Hall Road study was conducted. The Hall Road study dealt primarily with logging trucks. The study establishes corridors in areas where considerable damage is being done by trucks loaded with 100,000 pounds or more. In some cases, it is much more than 100,000 pounds. We have heard of a recent incident where it was 158,000 pounds and one person was killed.

It seems to me that good common sense should prevail and that we should postpone this bill and allow the transportation people to conduct a cost allocation study and, when they come before this body, they can substantiate what they are asking for.

Also of interest in this study I have before me, it tells us that Maine is 10 percent higher than most of the other states in the nation in allowing this type of weight on the roads. I am not an engineer but there is nobody that can convince me, and I don't care how many axles you put under a vehicle, 100,000 pounds weighs 100,000 pounds. If you have a road that is designed for 80,000 pounds, there is going to be some damage. If you don't believe me, take a look at 95 and tell me where those ruts come from. They certainly don't come from automobiles, they are coming from overweight vehicles. If you think that is bad, Interstate 95 was designed primarily for 80,000 pounds, our secondary roads were not.

Now my good friend from Princeton, Representative Moholland, says that we shouldn't debate too long because we should be out of here on the 20th. I quite agree with him but you know it is getting more and more difficult to get down here. A week ago last Tuesday, I was following my good friend, Representative Jacques from Waterville down 95 and he almost didn't make it. Some trucker decided to pull into the left lane with no blinkers on and almost ran him off the road. It is an amazing thing, yesterday morning I was driving down 95 and I thought it was odd I couldn't see any trucks on the road. I said, "Gee, there is something wrong, there are no truckers this morning." When I got to Sidney, I saw the answer, the scales were up and only the ones that were in the pipeline were all parked at the rest

area, but there was nobody else on the road. If you would have been there last night after six o'clock, you wouldn't have believed the traffic on that road. It looked like a train -- truck after truck after truck. They have a good communication network, they know how to avoid the scales.

I keep hearing we need more enforcement people. Ladies and gentlemen, that is a crock, you need some enforcement people but you need other methods. One of the best methods that we came across on the Railroad Task Force was the Minnesota law which utilizes relevant evidence. However, none of us could convince ourselves that there was such a tremendous amount of violators driving over the roads in overweight conditions, we wanted to conduct a study before we implemented or recommended implementing that law. The Transportation Committee reported that bill out 12 to 1 "Ought Not to Pass" and this was merely a study. That kind of picked up my curiosity and I have been doing more research. Everywhere I turn, everybody agrees, everybody is running overweight.

It is just like the speed limit, you put the speed limit at 55, everybody goes 65. You raise it to 65, everybody goes 75. The same system applies to truck overweight, you allow them to go at 100,000 pounds, they are going to go 120,000. What we need is several types of enforcement.

The Relevant Evidence Law is very easy to administer. What it does is, it takes the recorded weights at the destination site of these vehicles and that information is utilized in court for prosecution, it serves as an excellent deterrent and it is infallible. It worked so well in Minnesota that they had to pass a moratorium because they couldn't keep up with the prosecutions.

Common sense should prevail here this morning and we should do what is right. I know something about economic development and people will tell you this is economic development. Not true, ladies and gentlemen, this is economic development in reverse. We are creating more damage on our roads than we can afford to maintain. We need a true cost allocation study before this bill is allowed to become law. I would hope that you would vote with the motion to indefinitely postpone this bill and all its accompanying papers.

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

Representative MILLS: Mr. Speaker, Men and Women of the House: Once again, this bill is being brought up and I guess it is getting tied up with a lot of other issues that are coming from the Transportation Committee this session. I would just like to go back over what the bill does again and make sure everybody understands.

If you are against the 100,000 pounds being on the road, which is what seems to be the argument of a lot of people, we already allow 100,000 pounds on the roads. All this bill does is allow what we believe to be about 500 more trucks to be able to go up with the other thousands of trucks that already in the State of Maine carry 100,000 pounds. If you are against the 100,000 pounds, we already have it, it is currently on the books, it is legal for most trucks in Maine to already carry that amount of weight.

It just seems to me, if you are going to allow the logging industry, which our family happens to be in, to carry up to 100,000 pounds, you should be able to allow the other industries to carry up to 100,000 pounds also. We don't have trucks that carry anywhere near that weight in our particular business but a lot of other businesses do.

When this bill came in, I would just like to quote from DOT what they had to say on it. They said, "We believe that this bill represents a rational approach towards improved efficiency in the trucking industry with expected productivity gains reaching 17 to 33 percent. At the same time, the certification process will maintain or even enhance highway safety." Now, why would they say it would enhance or improve highway safety? The reasons are the brakes, axles, suspensions on all these vehicles will be weight certified.

Weight by axle -- the reason why we are going with 6-axles is the idea that even though you have 100,000 pounds -- most studies that you will ever see on any damage that is done to highways will show you that it is the axle weight that causes damage to the roads and that is why we have changed our weight laws to go by axle weights. What this does is, it allows a 6-axle into that same 100,000 pounds, you have a no longer, heavier or anything else truck, you have the same 100,000 pounds with 6-axles instead of five. The idea is that you can spread your weight over the 6-axles. What happens is, as was shown at the committee hearing and every time we argued this bill, each axle weight will be 4,000 pounds less. You can argue that it is the same amount of weight (100,000 pounds) and that is true, but the point is, with a 6-axle, you have spread the load out and each axle weight will be 4,000 pounds less. That is the reason why many of us supported the bill.

As far as enforcement goes, there have been a lot of arguments made about enforcement, we would have better enforcement. I agree with that. It was mentioned today that we should have kept the Kittery area scales open. You will notice that many of us who are on the Transportation Committee did vote for that bill and wanted that bill. I always have supported it and always will. I think it is important and I have always supported having more police officers for enforcement, so has the rest of the committee I might add.

This bill also requires that a person that is caught overloaded to go back to 80,000 pounds. Since there is no fine rebate, that means instead of a \$95 fine, it will be \$475 for each time. Now as far as enforcement, in a compromise effort that was made by this body, Representative Soucy offered an amendment to this bill which said that every bit of money that is collected for these trucks that will be going at 100,000, that that money will be turned back for enforcement. That is \$150,000 more. People might argue that that wouldn't be much as far as damage goes but as far as enforcement goes, that is a lot of money towards our enforcement of the roads.

I would also like to point out that it was mentioned here just a few moments ago that there are no roads, except for secondary roads, that people would be able to carry 100,000 pounds on. That is not true. The Maine Turnpike also allows you to carry that amount of weight. I want to make sure people understand that also.

The most important thing for people to understand is, this bill does not allow any longer, any wider, any higher, or (most importantly) any heavier trucks than are already currently and legally in use in the State of Maine. It allows a few more, approximately 500, to go up to that weight but it does not allow any heavier, longer, wider trucks than are currently in use. It allows a 6-axle to spread that weight out. I think that is really important for people to understand that. We are getting so hung up on the 100,000 pound weight limit.

It is hoped by many people who voted for this bill that, if we allow the 6-axle to go on, we will

be encouraging people who have the 5-axle trucks to go to the 6-axle, therefore, spread their weight out, causing less damage to our roads. That is the reason most people from the committee are supporting this bill.

I just want to close by pointing out that the amended version of this bill has 12 members of the committee supporting it, it is supported by the Department of Transportation, and I hope you will vote against the pending motion so we can finally enact this bill.

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

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I am going to be extremely brief. I think Representative Carter did an excellent job of explaining all the concerns that we have. I, too, served on the Railroad Task Force for the past two years and I would urge you to indefinitely postpone this bill and all its accompanying papers.

Our railroads are already having 'enough' problems without encouraging more trucks to compete for the same business. I urge you to please help save all of our infrastructures by leaving well enough alone. I urge your support for indefinite postponement.

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

Representative KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: I want to respond to my good friend, Representative Mills. He is trying to tell you that these trucks will not be any larger, won't be any bigger, they will spread their weight out. That is true, they won't be any larger and they won't be any bigger and they will be able to carry 100,000 pounds and yes, there are a few trucks and I say a few trucks that are out there carrying 100,000 pounds. I am talking a lot more, I am talking maybe 500, maybe 1,000, I don't know how many will go to 6-axles and that will put an impact on our roads. Those roads are not prepared to take that kind of weight, no matter what, it is 100,000.

I said to you before and I will restate it, it will be more than 120,000 or 125,000 pounds. You heard Representative Carter tell you of a man who carried 152,000 pounds. It will make an impact on those roads. He says, it is less dangerous. Well, I disagree, it is very dangerous.

You heard Representative Racine tell you, it is more difficult to stop a truck with more weight and it is. You know how difficult it is especially if you are speeding.

I was coming up here yesterday and I thought I was going to be driven right off the road. I thought this guy was playing games with me, I wasn't quite sure what he was trying to do or maybe he was going to hit the toll house. I wasn't sure what his rush was. He must have been going 85 miles an hour and he was coming right up to my back bumper. He scared me to death. You know what he did? He got to the toll house and he pulled over to the side of the road. I don't know what he was trying to prove but he certainly scared me. Can you imagine someone trying to jam his brakes on with 100,000 or 125,000 pounds on there, coming along up to that toll booth or right beside your car and you sort of veer off a little bit? He almost threw me off the road.

I am telling you, this is a very dangerous thing to do. The DOT supports this. That is my question, I still haven't found out why the DOT supports this.

I told you about the brakes. Representative Mills mentioned the brakes. They may be certified but I don't believe they are inspected as often as he thinks they are. I know for a fact, that is why they

release those brakes because they want to prevent jackknifing.

You heard there are more trucking accidents than ever before. Most of those trucks usually jackknife, their loads shift, and when their loads shift, they tip over. Who is going to be the victim they are going to land on? You are right, there are caravans of trucks now. You can count them. I can't see the cars sometimes before I see the trucks.

I hope you will stick with what I am trying to tell you and give us a chance to study it, come back, give it a year, give us some time to let us think about what we are doing here and indefinitely postpone this bill.

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

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I would like to sort of put into perspective some of the things that have been said here. I don't have any horror stories to tell you, nothing happened to me at all coming in here today, it was very routine. You know we are talking about 500 trucks, that is the figure we have been told. Just to give you a little perspective, we are talking about 500 trucks statewide. These 500 trucks, I am sure, are not all going to be on the road at the same time. On the Maine Turnpike, the average number of trucks that use the turnpike each day are 10,000 to 12,000 trucks. We are talking about 500 trucks statewide.

It seems to be the policy here today that we are going to blame the truckers for everything that is happening in this state today and I think that is very unfair. I have not always been on their side but, at the same time, I think you have to realize the service that they perform in this state. If you were to take the trucks off the state roads for one or two days, you would see this state come to a grinding halt, I don't think there is any argument there.

When we talk about railroads, the young lady from Rockland mentioned that, if you put more trucks on, it will hurt the railroad. I don't think that is correct. If I thought that curtailing truck traffic would bring the railroads back to this state, I would certainly do everything I could to make that happen.

There is a cost allocation study that is going on to determine what impact the trucks have on the highways, whether the trucks are paying their fair share. I don't know. I know that this bill was in committee a long time, we had input from truckers, we had input from AAA, we had a lot of people who testified for it. The DOT was in favor of it, the State Police were in favor of it, it is not something that just came to light here. There are a lot of people in here that are more knowledgeable about trucks than I am but I have learned a little bit in eight years on the Transportation Committee.

I really feel that passing this bill is very important. I don't think it is fair to let a certain portion of the truck owners or truck drivers in this state carry a load and say to the others you are not allowed to carry this much. I don't think that is really being fair.

I am not going to keep you any longer. I am sure we have other things to discuss but it is a bill that received a lot of attention in the committee. We talked to everybody about it and I think it is a bill that is worth your support.

I would hope you would vote against the motion to indefinitely postpone.

Mr. Speaker, I would ask the Committee Report be read please.

Subsequently, the Committee Report was read by the Clerk.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I strongly resent the implication made here this morning that truck drivers are not safe drivers. We started debating this bill because of axle weights. That is fine, but when it comes down to the truck drivers being discourteous and that they are not good drivers, I really resent it. Statistics will show you they are the safest and most courteous drivers on the road.

I, too, drive on 95 and if you pass a trucker and you put on your blinker, nine times out of ten, he will blink his lights to say, pull over, come on in, it is okay. I have failed to ever see an automobile ever do that. When you pass them, they usually speed up to get ahead of you and they do the same with the truckers. People who drive these little cars who pass a trucker and pulls in front of him and you step on it, they slow down -- believe me, it is dangerous. It is not his fault, it is theirs. People who come up behind a trucker, right up close, he cannot pick up those little cars in his mirrors, it is impossible. Let's debate the issue and not start tearing down the truck drivers.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I served on the Railroad Task Force and I do want to remind you that the task force objectives were similar to those objectives you are hearing today and preserving economic development opportunities is one of those objectives.

On October 27, 1987, we had appearing before us Sergeant Pearson, Mr. Hinkley, Mr. Skofield (I believe he has a title but I am not aware what it is, Lieutenant perhaps) anyway, those persons appeared before us and talked about the issues that we are talking about today. We talked about safety. We talked about the conditions of the highway. If this bill is going to allow 500 more heavier trucks on our highway, I urge you to indefinitely postpone this bill. I urge you to indefinitely postpone this bill because Mr. Hinkley, in replying to a question and queries by the Legislative Task Force on Railroads said, "We are in the process right now of redoing the Highway Cost Allocation Study. We did one in 1982 to determine the equitable cost for the users of the highway system. I don't know what the new study will show. We only looked at legal use of the highway system. Certainly overloading is outside the realm of the highway tax system. The pavement is consumed by heavy axles."

I don't think it could be said any plainer than that by allowing additional trucks on the highway, heavier trucks, we then will be damaging our highways. We will also be putting citizens of this state in jeopardy because there are 2.8 million trucks going up and down our highway system (according to this report) each year. There were 150,000 trucking permits issued last year. Therefore I believe, as Representative Carter said, we should indefinitely postpone this bill until all the facts are in.

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

Representative STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I speak to you today as a proponent of this measure and maybe I should tell you why I signed the bill out "Ought to Pass." Some of you may wonder why I would support increasing the truck weights to 100,000 pounds.

I, too, served on the Railroad Task Force and I want to tell you that, through the task force meetings, you heard issues dealing with railroad issues and lots of times I think the testimony was maybe just dealing with railroad issues. I think you could serve on task forces that dealt with truck issues and you would hear information dealing with just truck issues.

I will take you back a few years -- I served on the Highway Cost Allocation and I am on the committee to study the new highway cost allocation. It has been said today that there is going to be an increase of approximately 500 new trucks. I question that. You may see that there will be some transfers from the 5-axles to the 6-axles so there may not be that many new trucks.

My position for supporting the bill was I felt, in fairness to the general commodities, that if we were to allow trucks in my area of the state to haul 100,000 pounds, why is it wrong for those other commodities to do the same? That is why I supported the bill. I think it is a fairness issue.

You know, when the new highway cost allocation comes out, and I would dare say today that, in my opinion, you may see some changes the other way. When I looked at the previous Highway Cost Allocation, we adjusted the people in the forest industry that used 4-axle trucks and we increased their permit fee up to \$360 a year because we felt those people were the ones that were creating a lot of the damages on the highway. Over the last few years, they paid accordingly. In the new cost allocation figures with a shift to a 6-axle vehicle, it may make some changes downward. You may see in the new cost allocation where automobiles may be faced with an increase.

Looking over the last few days, I saw a proposed amendment that is going to come before the House and I will tell you that when the question was asked to reconsider, I objected. The reason I objected is because, with the amendment that was going to be proposed to reduce all trucks to 80,000 pounds, in my opinion, this is not the time to do it. In the future, when we have more time to discuss these issues, if that is the feeling of this body or the next session of the legislature to reduce all trucks to 80,000, so be it. I don't think this is the time to be looking at that issue. I would urge this House to vote against the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative McPherson.

Representative MCPHERSON: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you also to vote against the motion to indefinitely postpone. Let me just explain quickly, if I can.

This bill is a result of the truck issues study committee which has been an ongoing committee made up of legislators, trucking interests, AAA, DOT, they have all been involved in it. This issue has been studied, if my memory serves me right, for the last three years, if not going on to four.

We keep mentioning we are going to add 500 more trucks to the roads. I think the original estimate was somewhere in the neighborhood of 300 and a maximum of 500.

Let me just tell you what trucks are involved. These are the trucks out there that are hauling general commodities, Cole's Express, Merrill's, H.O. Bouchard and what used to be Sanborn's, I believe it is APA now. It is extending that 100,000 pound limit to them under some real tight, strict, safety conditions. You are going to have better weight distribution. There is an inspection program that they have to follow. We, on the truck issues

committee, just couldn't see how this could be a safety issue.

I will point out again that AAA was on that committee and I can't remember and I think I attended as many meetings as anybody, I can't remember them opposing this. I would urge you to vote against the motion to indefinitely postpone.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: You have heard an impassioned plea on the issue of fairness from my good friend, Representative Strout of Corinth. I know full-well, and we all know full-well that it is much more difficult to roll something back because the issue of grandfathering is always in the forefront. They have been doing it for years and you can't stop them from doing it without the issue of "just compensation." Think about it, and before you allow this to happen, put it in proper perspective.

We hear about the ongoing cost allocation study -- now I am not standing on my feet here to try and fault the Transportation Committee or the Transportation Department, they have got more problems than I care to talk about here today. This points to a classic example on the issue of dedicated funds but I am not going to get into that. I will just try and stick to the issue of this particular bill.

The Task Force on Railroads was very much concerned with the trucking industry because we kept hearing this old chestnut that they were oversubsidized and overweight and that they are putting the railroads out of business. We wanted to substantiate that evidence. Ladies and gentlemen, we couldn't do that. We were told by the Department of Transportation that there was an ongoing allocation study, that it would be done sometime in October. October rolled around and it was moved to January. January rolled around and it was moved to April. Now I am told it is going to be sometime this coming September. Well, I think common sense should tell us that until the cost allocation study is done and we can really put the dollar signs on the impact of such a bill, this bill should be sent where it belongs -- the deep six. I hope that you will go along with the motion to indefinitely postpone.

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

Representative KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: I just got off the phone with the Maine Turnpike Authority. I wanted just to check to find out if I was incorrect or Representative Mills was incorrect. I found out Representative Mills was incorrect, the Maine Turnpike -- and I can quote because they told me I could -- "will not allow trucks on the Maine Turnpike over 80,000 pounds unless they have a permit." I asked them how many trucks have done that, they said very few. I also asked them, if we passed this bill today for 100,000, would you allow those trucks on the Maine Turnpike? He said, "We would have to change all of our rules and regulations and we can't decide that today." So, they don't really know. I just wanted you to know that.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Racine of Biddeford, that this bill and all accompanying papers be indefinitely postponed. Those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL NO. 247

YEA - Aliberti, Allen, Baker, Bost, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles,

Conley, Curran, Daggett, Dore, Dutremble, L.; Erwin, P.; Gurney, Gwadosky, Handy, Hوجلund, Holt, Jacques, Jalbert, Joseph, Ketover, Mayo, McSweeney, Melendy, Nadeau, G. G.; Nutting, Oliver, Paradis, P.; Paul, Perry, Priest, Racine, Rand, Reeves, Ridley, Rolde, Rydell, Sheltra, Smith, Tardy, Telow.

NAY - Anderson, Anthony, Bailey, Begley, Bickford, Bott, Boutilier, Bragg, Brown, Callahan, Cote, Crowley, Davis, Dellert, Dexter, Diamond, Farnum, Farren, Foss, Garland, Glidden, Gould, R. A.; Greenlaw, Hale, Hanley, Harper, Hepburn, Hichborn, Hickey, Higgins, Holloway, Hussey, Jackson, Kilkelly, Kimball, Lacroix, LaPointe, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Manning, Martin, H.; Matthews, K.; McGowan, McHenry, McPherson, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Murphy, T.; Nicholson, Norton, O'Gara, Paradis, E.; Parent, Pines, Pouliot, Reed, Rice, Richard, Rotondi, Ruhlin, Salsbury, Scarpino, Seavey, Sherburne, Simpson, Small, Soucy, Stevens, A.; Stevens, P.; Stevenson, M.; Strout, B.; Strout, D.; Swazey, Tamaro, Taylor, Thistle, Tracy, Tupper, Vose, Walker, Warren, Webster, M.; Wentworth, Whitcomb, Willey, Zirkilton.

ABSENT - Armstrong, Duffy, Foster, Hillock, Look, Mahany, Marsano, Nadeau, G. R.; Paradis, J.; Stanley, Weymouth, The Speaker.

Yes, 46; No, 93; Absent, 12; Paired, 0; Excused, 0.

46 having voted in the affirmative and 93 in the negative with 12 being absent, the motion did not prevail.

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

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

An Act to Recodify the Laws on Municipalities and Counties (H.P. 1855) (L.D. 2538)

TABLED - April 12, 1988 (Till Later Today) by Representative CARROLL of Gray.

PENDING - Passage to be Enacted.

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

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

Bill "An Act to Revise the Energy Building Standards Act" (S.P. 93) (L.D. 247)

- In Senate, Majority "Ought to Pass" in New Draft Report of the Committee on Energy and Natural Resources read and accepted and the New Draft (S.P. 958) (L.D. 2539) passed to be engrossed as amended by Senate Amendment "B" (S-352) in non-concurrence.

- In House, House Adhered to its former action whereby the Bill and accompanying papers were Indefinitely Postponed on March 30, 1988.

TABLED - April 11, 1988 by Representative DIAMOND of Bangor.

PENDING - Motion of Representative DEXTER of Kingfield to Reconsider.

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

Representative DEXTER: Mr. Speaker, Men and Women of the House: And the cat came back! I don't know where he went. I was hoping he went out of state but he is here today.

Representative Jacques said, I hadn't won anything this year. I would hope that you didn't spoil my record, I ask you to jump on me, pound on me, bury me in an un-insulated casket, preferably a

hemlock one so I can go through the hot place just a snapping. So, when I set down, just vote no.

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

Representative MICHAUD: Mr. Speaker, Men and Women of the House: I agree with Representative Dexter on his motion to reconsider. I think it is an important bill. I think it is a bill in the right direction. So, I hope you would vote for Representative Dexter's motion and vote yes on reconsideration.

Representative Murphy of Kennebunk requested a roll call vote on the motion to reconsider.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, Members of the House: First of all, I want to thank you for the support you have given us, both Representative Dexter and myself on the two votes. I hope you won't jump ship now.

This bill is flawed, no question about it. It has been a long time since we talked about it and I am not going to go through the whole thing again. I am sure that if you will vote with us, when it comes another year, we will come up with a bill that people can live with that won't cause another bureaucracy up here, it will not throw roadblocks in front of the building industry and everybody will be happy.

I hope that when you vote, you will vote with the good Lord and Representative Dexter and vote no.

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 Dexter of Kingfield that the House reconsider its action whereby it adhered. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 248

YEA - Aliberti, Allen, Anthony, Baker, Bost, Boutilier, Carroll, Carter, Cashman, Chonko, Clark, M.; Coles, Conley, Cote, Crowley, Daggett, Diamond, Dore, Dutremble, L.; Erwin, P.; Gurney, Gwadosky, Hale, Handy, Hickey, Hوجلund, Holloway, Holt, Jacques, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lisnik, Macomber, Manning, Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nutting, O'Gara, Oliver, Paradis, P.; Perry, Pouliot, Priest, Racine, Rand, Rice, Richard, Rolde, Rotondi, Ruhlin, Rydell, Simpson, Stevens, P.; Swazey, Tardy, Thistle, Vose, Walker, Warren, The Speaker.

NAY - Anderson, Bailey, Begley, Bickford, Bott, Bragg, Brown, Callahan, Clark, H.; Curran, Davis, Dellert, Dexter, Farnum, Farren, Foss, Garland, Glidden, Gould, R. A.; Greenlaw, Hanley, Harper, Hepburn, Hichborn, Higgins, Hussey, Jackson, Jalbert, Kimball, Lawrence, Lebowitz, Lord, MacBride, Matthews, K.; McPherson, Murphy, E.; Murphy, T.; Nicholson, Norton, Paradis, E.; Parent, Paul, Pines, Reed, Ridley, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Small, Smith, Soucy, Stevens, A.; Stevenson, M.; Strout, B.; Strout, D.; Tamaro, Taylor, Telow, Tracy, Tupper, Webster, M.; Wentworth, Whitcomb, Willey, Zirkilton.

ABSENT - Armstrong, Duffy, Foster, Hillock, Look, Mahany, Marsano, Martin, H.; Nadeau, G. R.; Paradis, J.; Reeves, Stanley, Weymouth.

Yes. 71; No. 67; Absent. 13; Paired, 0; Excused, 0.

71 having voted in the affirmative and 67 in the negative with 13 being absent, the motion to reconsider did prevail.

Subsequently, the House voted to recede and concur.

By unanimous consent, was ordered sent forthwith to the Senate.

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

HOUSE REPORT - "Ought to Pass" as Amended by Committee Amendment "A" (H-638) - Committee on Transportation on Bill "An Act to Reallocate Funds from the Maine Turnpike Authority for Construction and Maintenance of Secondary Roads" (H.P. 1574) (L.D. 2149)

TABLED - April 12, 1988 by Representative DIAMOND of Bangor.

PENDING - Acceptance of the Committee Report.

On motion of Representative Diamond of Bangor, retabled pending acceptance of the Committee Report and specially assigned for Friday, April 15, 1988.

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

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Knox County for the Year 1988 (Emergency) (H.P. 1921) (L.D. 2621)

TABLED - April 12, 1988 by Representative ALLEN of Washington.

PENDING - Final Passage.

On motion of Representative Allen of Washington, under suspension of the rules, the House reconsidered its action whereby L.D. 2621 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-700) and moved its adoption.

House Amendment "A" (H-700) was read by the Clerk and adopted.

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

(At Ease)

The House was called to order by the Speaker.

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

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

Committee of Conference

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on: Bill "An Act to Establish the Strategic Training for Accelerated Reemployment Program" (Emergency) (S.P. 946) (L.D. 2494) have had the same under consideration and ask leave to report: that the House recede from passage to be engrossed, indefinitely postpone House Amendment "A" (H-478); read and adopt Conference Committee

Amendment "A" (H-696) and pass the Bill to be engrossed as amended by Conference Committee Amendment "A" (H-696) in non-concurrence.

That the Senate recede and concur with the House. (Signed) Representatives GWADOSKY of Fairfield, CROWLEY of Stockton Springs, and WILLEY of Hampden - of the House.

Senators CLARK of Cumberland, ANDREWS of Cumberland, and WEBSTER of Franklin - of the Senate.

On motion of Representative Gwadosky of Fairfield, the Committee of Conference Report was accepted.

House Amendment "A" (H-478) was indefinitely postponed.

Committee of Conference Amendment "A" (H-696) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee of Conference Amendment "A" (H-696) and sent up for concurrence.

The sixth item of Unfinished Business was taken up out of order by unanimous consent:

HOUSE REPORT - "Ought to Pass" as amended by Committee Amendment "A" (H-669) - Committee on Legal Affairs on Bill "An Act to Strengthen the Drunk Driving Laws" (H.P. 1746) (L.D. 2395)

TABLED - April 13, 1988 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Motion of Representative CONLEY of Portland that the Bill and accompanying papers be indefinitely postponed.

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

Representative PRIEST: Mr. Speaker, Members of the House: This bill, "An Act to Strengthen the Drunk Driving Laws" results from a careful study. It is the Governor's bill and it is also part of a democratic legislative agenda. It is unanimous "Ought to Pass" out of the Legal Affairs Committee and it is before you today on a committee report. As you know, there has been a motion to indefinitely postpone and that is a motion I would ask you to vote against.

Maine, as you also know, has had a tough drunk driving law, has had one since the early 1980's. Despite that, unfortunately in 1987, over 49 percent of all fatal motor vehicle accidents in Maine involved alcohol. 115 people died in those 103 accidents. 17 percent of drivers who had been drinking prior to the accident were repeat OUI offenders and 83 percent were first-time OUI offenders. These figures, it seems to me, show that there is a need to deal both with first-time OUI offenders and repeat OUI offenders and that is what this bill does.

Briefly, this bill accomplishes three things. It establishes a .08 level for intoxication. This is a .08 blood level. This is not casual drinking. For a normal 180 pound person to get to a .08 level, he or she has to consume four to five 12 ounce cans of beer in one hour or four, four ounce glasses of wine in one hour, or five one ounce shots of whiskey in one hour or three martini's in one hour to be able to achieve a .08 blood level. That is not casual drinking, that is a level of drinking which means you ought to have someone else drive you home.

The Legal Affairs Committee heard testimony from the head of the Maine Medical Association and from other backers showing at the .08 level, there is significant impairment. Your judgment is impaired, you can't control a motor vehicle as easily as you thought you could and you even have problems telling primary colors apart, such as red and green.

What is worse is that you think you are more in control than you are. At the .08 level, alcohol has the effect of causing you to think that you are in better shape than you actually are. The .08 blood level represents a reasonable level at which you are so impaired that you ought not to be driving your motor vehicle and that is what this bill establishes.

The State of Oregon has a .08 blood level. The State of Utah has that, the Canadian Provinces have it and most European countries have it, in fact go beyond that and go to a .05 blood level. So, that is the first thing the bill does.

The second thing the bill does is establish a conditional license. If you are convicted of OUI, your license is suspended. You get it back but having that license back is conditioned on your not drinking and driving in the future. At the present time, the bill provides that if you are picked up for probable OUI by an officer and you are found to have a .02 blood level for alcohol, then your license is administratively suspended for one year. There will be an amendment coming down, which I think is a friendly amendment and which the Commissioner of Public Safety agrees with, which will establish that level at .05 rather than .02. That still, we think, accomplishes the purposes of the bill but may alleviate some of the fears that people were concerned about yesterday.

The third basic thing the bill does is establish a procedure that says, if you are convicted of OUI and your license is under suspension and you are picked up for OUI again and the state can show that you are under the influence at .08 or more, then your car can be sold. You have the choice as to whether to sell your car or to store it at state expense or to forfeit. There is a hardship provision in here so that the judge can say if the hardship of causing the sale or impoundment or forfeiture is greater to the family of the drunken driver than the harm to society would be by not having the forfeiture, sale or impoundment take place, that forfeiture, impoundment or sale can be waived. So, there is a safety provision here.

This provision is tough but it is estimated that it won't affect more than 75 drivers per year. Its main effect is to cause people to reevaluate themselves, ask themselves why they were picked up for the second time for OUI, why they are driving after suspension and to tell themselves that they need to change their behavior, they can't continue drinking and driving.

There are a few other provisions in the bill, the purpose of which is to make it easier to get and to use blood alcohol tests, either blood tests or breathalyzer tests in court.

That is essentially what the bill does. It is not a panacea for drunken driving. I wish we could come up with a panacea but we have not been able to do so. It does take a significant step.

I would also say that I know that many of you have heard from your constituents, especially those who think that this bill may affect them adversely. You are concerned about that and you are right to be so. I would also ask you to keep in mind when you vote on this bill that there are other drivers on the road who have a right to drive safely and to be free from possible death or injury caused by someone who is driving while intoxicated. It seems to me that these people deserve our protection as much or more than those who might be affected by the OUI law.

Therefore, I would ask you to reject the pending motion to indefinitely postpone and to accept the Committee Amendment.

Mr. Speaker, I ask for a roll call.

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

Representative JALBERT: Mr. Speaker, Men and Women of the House: Many of my colleagues in this body were surprised that this bill came out of committee unanimous "Ought to Pass." This is one of the most difficult bills I think the Legal Affairs Committee has had this year. I think we have spent anywhere from six to eight weeks on it. If anybody thinks that this bill is drastic, they should have seen the original bill. It came out unanimous and I have had to swallow, many members have had to swallow and compromise -- there isn't a single member on the Legal Affairs Committee that can be told what to do.

There are parts of it that I didn't like and parts of it that some others didn't like. If we had come out with any one or two or three reports, I felt that we would have been bogged down on certain issues. By having a unanimous report, it means that the whole bill would be debated, every part of it.

There is a misunderstanding here as to the full effect of the new bill. The new bill, when you first look at it, you must remember that there is an existing OUI bill on the books and what you have on the current law, (on the first offense) is .10 and it is a \$300 fine, no mandatory jail sentence and a 90 suspension. But, if you are over .15, then it is a two day mandatory sentence or, if you are speeding over 30 miles per hour or eluding an officer, then it is two days. If during that 90 day suspension and you get picked up again for .10, it is a second conviction. After 90 days, you are restored at full license. If you are caught after that, it is a second offense.

What the new bill does, it has the same \$300 fine and 90 day suspension but during that 90 days, if you are caught driving after suspension only, there is no forfeiture, that should be understood. Many people did not understand that. During that 90 days while you are under suspension but you are not .08, you merely get fined for driving after suspension. But, if during that 90 days and you are under suspension and picked up again with .08, then that is when there is the question of the automobile, you have to get rid of it. After that 90 days is up, you are then under a conditional license for five years and nine months. If during that time, you are picked up with .02 -- I know that this is a bone of contention and probably an amendment will be presented which would correct that, many people have doubts about that. That is the change, that mandatory \$300 fine and the 90 day suspension is now on the books. What has been added is the next conviction of doing the 90 days. I feel that if a person is doing that 90 day suspension, has been given a chance to think about it, and that person goes out and gets drunk again, I have no pity at all.

The feeling is that, and I am not one of the drive forces, is that if you wish to drive -- just drink, just don't drive. That is all it amounts to.

I know there are provisions in there for hardship cases but it should be understood that we say to the person who persists in driving drunk, "Mr., there is only one thing left for you to do, if you won't stop driving, we are going to take the toy away from you, you are just not going to go out with that automobile."

I would say not to vote against the indefinite postponement because if we do this, we are telling the whole State of Maine that we don't want any changes whatsoever and there is need of change. I am not saying that some of these amendments are bad but don't vote for indefinite postponement because we are sending a message out to everybody saying the way

things are going is going to be good. I would ask that you vote against indefinite postponement.

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

Representative PAUL: Mr. Speaker, Ladies and Gentlemen of the House: My good chairman of the Legal Affairs Committee has pretty much covered the meat of the bill but I would like to tell you that the .08 concept of the bill is supported by the National Highway Safety Administration, the Northwestern University Traffic Institute, the President's Commission on Drunk Driving, the Maine Highway Safety Commission, Mothers Against Drunk Driving, Maine Medical Association and the Maine Chiefs of Police Association.

As I previously stated, a lot has been said by the chairman on this bill and I, in order not to be repetitious, will cut my remarks down, but I have made some personal notes of my own and would like to tell you this, that L.D. 2395 is a good bill. It is a strong bill with serious consequences for those who continue to drink and drive a potential dangerous weapon consisting of 2,000 pounds of steel at speeds of up to 65 miles per hour. How lenient can we afford to be when the intent of this bill is to save lives that are carelessly lost on our highways each year due to drinking and driving?

I have carefully weighed each section of this bill, each word, because for 26 years, my work involved the enforcement of motor vehicle laws. I have seen first-hand what one too many drinks can do to a person's life. People tend to misjudge their intake of alcohol.

In the performance of my duty, I became involved in removing deceased victims from wrecked automobiles on the paved highways and in the ditches. The really sad part of my work was to muster the courage to go to someone's home and advise the next-of-kin of the bad news.

Which way would you vote today on this bill if you had had someone pounding on your chest, pleading with you that what you are telling wasn't so? I experienced that unpleasantness, I know which way I will vote.

The OUI law makes certain provisions for first, second and third offenses. Let me ask you, how many chances does the victim get? I guess we all know in the victim's case, the verdict is final. When you cast your vote today, please let your conscience be your guide and I hope you will vote with me on this bill.

The SPEAKER: The Chair recognizes the Representative from Sabattus, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: Yesterday on our desks, we had a slip of undedicated revenues. I think the people have shown they are ready for us to vote in favor of this piece of legislation because last month the liquor end of it turned over to the General Fund was down 54 percent.

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

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I have listened quite patiently during the session as bills have been debated and honestly felt that, on most occasions, I didn't have a lot to add. If you wait long enough, usually your questions are answered or your concern addressed. However, today I would like to share a few thoughts with you on the subject that we are now debating.

My attention was drawn to the drinking and driving problem many years ago while chaperoning high school class trips. I realized that there was

definitely a problem out there and so I started a program to do something about it. I thought there was a problem in those days but I had no idea of what the future held. Anyway, I started a program, a safety program in our high school, my mentor was Arlyn Barnard from the Portland area of the Maine Automobile Association. With his coaching and expertise, I started a program that was pretty successful with the young people.

Then I was asked by the Maine Automobile Association to teach the first court-appointed driving improvement course in Portland where people that were having drinking problems and so forth were referred to a driving improvement program before they could get their license back. This was also supported by employers. Since that time, I have continued to train drivers from teenagers on through to line-haul truckers.

I was involved in most of the alcohol programs during the years that followed and, in the late 1960's, I was appointed to the Maine Highway Safety Committee which is now the Maine Highway Safety Commission of which I am Vice-Chairman.

In the late 1970's, I was assigned the responsibility of the alcohol and other drug programs for 3,000 students and staff at our school system. It was this experience that changed me and my attitude toward the problem. For the first time, an attitude of frustration and discouragement to one of success and the realization that something could be done and people could change their lives around to one of being a winner, to live productive lives and bring the family back together, those that were harmfully involved.

We have a chance to do just that here today. I would like to try to explain that. Actually, things haven't changed a whole lot on our highways. The good Representative gave you the statistics but I won't repeat those, but it is unbelievable to me that we will allow drivers to operate on our highways who have been drinking.

A situation where on the best of days a normal driver has some difficulty, now we add a few drinks and we have a serious problem. What a senseless tragedy to lose a life at the hands of an individual who doesn't have full use of his or her faculties. We say we must protect the rights of that individual -- what about the rights of the citizens who are responsible and wish to travel our highways and not be subjected to this danger? How about your husbands, your wives, your children, your grandchildren? Don't they have some rights to be able to go to the local grocery store without fear of being run into by a drunk driver?

Several years ago, I took one of my summer college classes from UMO on a field trip to Bangor Municipal Court. Three weeks prior to that, the Bangor police picked up an OUI offender that tested .44. That individual was near death. He was coming down Hammond Street on the wrong side of the road with the drivers door open and a foot dragging. After that particular incident and doing some checking, we said that we were going to tighten up our OUI law so this couldn't happen. It did happen this winter. We had a young lady in my community that was killed on our highway with a .42. Now, the problem here is, that is a tragedy, but the other problem is that the young lady that hit her was 17 years old. Now, what about her pain and suffering, is she going to think about that? I think so. How did that .42 individual slip through our net? We need identification for these people so that we can help them.

In the halls I have heard the comment "hardship" and I heard it referred to this morning and I heard it from one of my constituents. Ladies and gentlemen, what is hardship? Is it losing the vehicle and finding a ride to work or the shopping center or is it living with the reality that you, as a drunken driver, has killed someone? Is it a hardship the husband is killed because of an OUI and the family must survive without him?

I sat here for hours listening about pain and suffering and I go back to that 17 year old because I think probably there isn't a day that goes by that she doesn't think about what happened on one of our highways. I can give you other stories but I won't because I realize that scare tactics don't work. The sad part of the whole story is that this bill will help, it certainly won't solve the problem, but it will help. It will help by interrupting the harmfully involved individual get his or her attention and maybe get them into treatment or if we have a good, excellent, public relations program to get out to our people, this will also have the social drinker more responsible. A permissive attitude does nothing but compound the problem.

I would agree on one point that the good Representative from Portland made yesterday, "Enough is enough." Let's work together and remove the drunk driver from our highways.

We have MADD, SADD and now just recently BADD. We have mothers, students and bartenders against drunk driving. There is a group that is missing and that is LADD, Legislators Against Drunk Drivers. Our first action could be to oppose the motion to indefinitely postpone this bill.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: The Chairman of the Committee has said that this is a Governor's bill and it is his effort to follow through on a campaign pledge. I think for once we have an OUI bill that focuses on victims and victims not as statistics. To be very frank, I think one of the problems we have had in the last several decades is that we have become very conditioned to statistics. We have become very conditioned to the numbers of people that have died on Maine highways.

I think we heard the other day an opponent of this bill, he threw up a smoke screen or a red herring and said that this bill is aimed at the social drinker. I think if one wanted to stretch that argument, one could probably say that there is one real small section here, the change from .10 to .08 that could be applied to the social drinker but let's look at what it takes to reach that point. As the chairman had said, in a one hour period, one would have to drink four or five 12 ounce cans of beer and immediately get behind the wheel of a car. Four, four ounce glasses of wine and immediately get behind the wheel of a car or five, one ounce shots of whiskey. Now in one hour, that is not the definition of a social drinker.

During the hearing and the work sessions and the informational sessions, we heard quite a bit about as one moves from .08 to .10, the changes that occur in terms of vision, coordination, judgment, but I think one figure, one proven fact that stood out in terms of realizing how much that driver between .08 and .10 is at risk to herself or himself or to the general public is that they can no longer distinguish the colors red and green, can no longer distinguish those colors. They are color blind. That means stop signs, that means stop lights.

The other day we heard quite a bit about the rights of the drunk, the drunk driver, people that literally are behind the wheel of a vehicle and killing Maine people. This bill, very clearly, targets habitual OUI offenders who drive drunk. It targets people who drive after suspension and people who drive after a prior OUI conviction. This bill, I think, is a bill that deals with victims' rights.

It states very clearly that Maine citizens have the right to travel our roads without being at risk of being killed or maimed by a drunk driver, that young people have the right not to be maimed and scarred for life. Young people have the right to grow up with their parents, rather than without a parent who has been killed on Maine's roads.

I think the reason we have seen this unanimous committee support and the kinds of comments made on the floor is, as this bill went into work session, into hearing, Mothers Against Drunk Driving, was very much involved. They were very successful in moving us from talking about statistics to people and the tragedies that were involved in that.

It takes me back to another time and another generation where we heard about statistics, they were the weekly statistics coming from Vietnam. When Life Magazine published the photographs of every young man killed in Vietnam that week, people began to search their feelings about that war and I think this hearing process has caused us to move from statistics, weekly, monthly or yearly and translate that into the tragedies that play out for decades after people die on our highways. So, this has become another war, it has become very personal and not just for those who have suffered losses.

I think the Governor is right, I think the Legal Affairs Committee is right and, hopefully, with a resounding no vote on the motion to indefinitely postpone, this House will also prove that it is right.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: A lot has been said here this morning and it is all true. In the Legal Affairs Committee, we did work this bill eight weeks and I would like to point out that I would like to think that this bill was passed unanimously, not because of the drunk driver or give him any benefits but because of the victims, victims that we heard about and the victims who may come.

I would hope that you would all vote not to indefinitely postpone. Maybe for the first time, we could pass a law with the victims in mind and not with the criminals.

This is a strong bill. It will be a rough bill, especially on drunk drivers but I think most of us will pass this bill with the victims in mind and I hope you consider them when you are voting.

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Harper.

Representative HARPER: Mr. Speaker, Men and Women of the House: Yesterday, it was Representative Conley who said, "enough is enough." He was referring to his opposition to strengthening the present drunk driving laws. The people in my District, 133, also are speaking out with a loud and a very clear voice, they have had enough, more than enough of heartache and of tragedy. The town of Lincoln and the surrounding villages have suffered greatly from the loss of lives of our young people. Even an entire family was wiped out by drunk driving.

On my questionnaire I asked, "Do you favor toughening OUI standards by lowering the blood alcohol content level from .10 to .08?" The response was, "yes" from 78 percent of the nearly 300 returns.

The second question was, "Do you favor toughening the penalties such as license suspension and even confiscating autos for repeat OUI offenders?" The response was 91 percent and they said, "yes." It is my hope that L.D. 2395 will be helpful in bringing increased safety on our highways.

I respectfully urge you to vote no on the motion which is before us.

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 Portland, Representative Conley.

Representative CONLEY: Mr. Speaker, Men and Women of the House: Obviously, this issue generated some debate here today. People have strong feelings about this issue, one way or the other. I know that we have many issues which we will be debating here before we adjourn, issues which are probably a lot more important but I consider this issue to be a very important issue. I guess probably I consider it to be an important issue because it is an issue I know something about.

I work in the courts of this state, I represent people charged with this offense, represent people who are charged with this offense who are not guilty of this offense. It is an easy issue to demagogue -- "Am I for the drunk driver?" I don't want to see a drunk driver on the road. When you talk about a test, somebody with their foot out the door dragging to stop their car, that person should not be driving a car, that person should be incarcerated for a lengthy period of time. Nobody is in favor of allowing somebody who is drunk to get on the road and operate their motor vehicle and not be punished for it. Let's make that clear.

What I am in favor of is fairness. You know that some person who is at home who beats up his wife and goes to court and probably gets a \$100 fine and walks out the door. That same person might leave the household, and instead of engaging in an argument, goes out and gets drunk or gets a drink. That person might then leave the bar, be stopped and he will go to jail for two days, a \$350 fine, a 90 day loss of license, his insurance triples, which his wife will be responsible for too.

Now I am not defending the drunk -- what I am talking about is proportionality here. I think we have to look at this issue in the light of fairness because the concepts that we are talking about in this bill, which are the tests that are involved, the penalties that will be exacted on people and what we want to do are concepts that have been around for awhile. They are concepts that are continually going to change and the changing is what concerns me. The .08 is the first change -- why not .05, like the good doctor suggested who testified before the Legal Affairs Committee? Why not that for the first offense? That same doctor was the doctor who, coincidentally enough, was an expert on court matters and appeared before the Judiciary Committee. Where is it going to stop?

We have always tied-in the tests a scientifically accepted level of impairment. That is why .10 has been around for quite awhile. That is why the other 48 states still have it. It is accepted. When we move it from .10 to .08, we are again starting a trend. Everybody wants to get the drunk driver off

the road. I was in court the other day and I heard a judge instruct a jury -- do the people in this room realize that it is not illegal in the State of Maine to have a drink and then get behind the wheel of your car? Most people on that jury thought it was illegal. People in Maine are conscious about the fact that they should not drink and drive.

This bill is going to take the standards of fairness that have been established by law and through debate in this chamber over many years and change it. The .02 provision troubles me the most. That has absolutely no tie to impairment. Again, it takes people who have been convicted once and treats them as second-class citizens. It tells them that they can't even take their cough syrup in the morning for fear they may be pulled over by an officer and lose their license for one year.

The same issue applies to forfeiture and impoundment -- if we open the door now, if we accept this principle now, what is to stop us from going along (as somebody used the European example) and take cars on the first offense from people? That is what they do over in Europe. Why not do it here? In this country, thank God, we have respect for the rights of people and property. We respect a families right to have a vehicle to get around in a state like the State of Maine, where the only place you can get by is in Portland, where you can walk from one place to another.

I represent a lot of people who have been charged with this offense, people have been convicted of it. There are people who have made mistakes and shouldn't be punished. I can tell you, ladies and gentlemen of the House, there are a lot of people who I represent who are no different than you and I. They are people who have never been in any criminal trouble in their lives, ever, but the penalty that we are changing here today to exact upon those types of people, are more harmful to that family, to that person, than any other types of penalties we exact on any other type of person charged with any type of offense.

That is what scares me about this bill and that is what scares me about the direction we are taking. Trust me when I tell you that this bill will be the best thing that ever happened to my profession that this House has done up here. It is a lawyer's dream -- myself and other lawyers across this state will have lots of people coming into see us. I don't think that the people I have talked to are aware how much power, not just the courts have, but the Secretary of State's Office has in these matters. People who have no training whatsoever in law have the authority to take somebody's license away based on a report that is submitted by an officer. I think we have got to draw the line with the direction we are taking. It is easy to hide behind the principle -- keep the drunk driver off the road, I am all in favor of that, but I believe we have got to start looking carefully about what the contents of these laws are.

For that reason, I would ask you to go along with the motion.

The SPEAKER: The Chair recognizes the Representative from Bucksport, Representative Swazey.

Representative SWAZEY: Mr. Speaker, Men and Women of the House: I think you all saw some of my constituents down front, school children, and I am glad they could be here today. I hope you look at their faces and hope that they realize they can be anything they want to be. There is one girl who couldn't be here and I wish she could have, she would have enjoyed being a Page. I don't know if she would enjoy hearing the Representative from Portland, Representative Conley, tell how we should feel bad

for the guy who has to rot two whole days in jail because he has been convicted of OUI, he might have to pay \$300 -- that is really going to set him back, huh? Or he might have a little star on his license that says he has been convicted of OUI, she might like to hear that. She couldn't be here with us today because last summer I went to her funeral. Nicole White, 14 years old, was killed by a drunk driver.

I hear today that we are going to penalize the social drinker, we are going to penalize the person with a .08 because he shouldn't be driving a vehicle, they are impaired and I would just say to you that someone who is driving under the influence for the first time is just as apt to kill a person as someone who has been convicted two or three times.

The SPEAKER: The Chair recognizes the Representative from Sabattus, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: On our Calendar today under 4-1, we have a Joint Resolution -- victims of the holocaust -- we are creating the same thing on our nation's highways and I think we should stop it there as well as remember anything else that has ever happened in our world.

25,000 people who die each year in drunken driving accidents. 5,000 of these victims are teenagers. Under the present law, if you are under the age of 21, it is .02 and they lose their license. I believe if we don't stay with what we have in our bill, we are telling our children, "Don't do as we do, do as we say."

The SPEAKER: The Chair recognizes the Representative from Orrington, Representative Tupper.

Representative TUPPER: Mr. Speaker, Men and Women of the House: We are here today to answer to the people in the State of Maine and to stop giving priorities for the rights of the accused. Let us think of society in general, the victims and their families. At the public hearing, a grieving father placed a picture of his son in front of me, a son that was killed by a drunk driver. Along side of him stood the boy's girlfriend on a wooden leg as a result of the same accident. Is this scene going to be repeated over and over again in our state? Isn't it about time we answered the concerns of the people out there and pass this bill and be able to go home and say that the 113th Legislature is cracking down on drunk drivers? Let us give it a try and vote no on the pending motion.

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

Representative RIDLEY: Mr. Speaker, Men and Women of the House: I just want to take a couple of minutes and maybe enlighten you a little on another aspect of this. I am not going to tell you all the horror stories that I have had to deal with. As most of you know, I have been a bail commissioner for a number of years in York County and it really alarms me of the number of OUI's that have come in on second and third offenses in the jail that I have to set bail for. I think anything that we can do to stiffen the drunken driving laws would certainly be a step in the right direction.

The number of people that go through that facility down there for OUI is increasing year by year and it seems as though there are as many second offenders coming through there as there are first offenders. I think it is high time that we did something to eliminate these drunken drivers on the road. I don't care if they are social drinkers or who they are. In my book, if you have been drinking, you shouldn't be on the highway because it is one of

the most devastating things that I have ever encountered.

I hope that you would not vote to indefinitely postpone this measure before you.

The SPEAKER: The Chair recognizes the Representative from Milo, Representative Hussey.

Representative HUSSEY: Mr. Speaker, Men and Women of the House: I am on this bill, I spent a good amount of time this past summer going back and forth on this study committee. I would like to talk about the .08 just a little bit.

This bill reduces it from .10 to .08. The overwhelming preponderance of medical and scientific evidence demonstrates that all drivers experienced significant impairment of driving ability at .08. If we can't rely on medical and scientific judgment, what do we rely on? Alcohol has multiple adverse effects on the central nervous system functions including diminution of judgment, slowed information processing rates, decreased ability to concentrate, decreased peripheral vision and loss of the ability to distinguish against the primary colors, red and green, of which our stop lights are red and green.

The relative probability of being involved in a collision increases by 50 percent between .08 and .10. I think that explains that fairly well.

I would also like to read a couple of letters. This is from a gentleman who is a recovering alcoholic. "OUI is a blessing and I am for tighter limits. Why? It is a public act of compassion, not only for the potential victim but for the person with the disease of alcoholism. As you probably know, this disease characterized by an ever-increasing denial or inability to see one's self or one's problem honestly, OUI provides the most effective means of intervention. It often creates a crisis great enough for the alcoholic to get a glimpse of reality and to seek help. Often more than one crisis is necessary to break down the defenses of denial. It would be better for all if the crises were with a police officer than at the scene of a serious automobile accident. Three cheers for title limits on a day when any alcohol detected offense to one's self and to society's in its responsibility."

This is a letter from a woman who lost her daughter. "My daughter, Laura Tarbox, four days after her 24th birthday going to a corner store for a pizza was killed by a drunk driver. He was driving a half ton truck with a plow-frame on the front going at a high rate of speed on the wrong side of the road. Two hours later, he still had a blood alcohol level of .15. Although he had no previous record as a drunk driver, the police took testimony of the fact that he had a serious drinking problem. My understanding is, because of eye witnesses, blood tests and a very complete police report by the Cumberland Police, that the case is a strong one against the driver, yet the district attorney wants to plea bargain. We feel that this case should be going before a jury. If we are ever going to effect a change, drunk driving cases like this need to be made as public as possible, not behind closed doors in a plea bargain situation. I can't begin to tell you the terrible grief and the pain that just does not stop but I know that I must tell you."

This letter is from a hit and run investigator for the Portland Police Department. "As a police officer, I obviously recognize the importance of strict enforcement as a tool for reducing the needless deaths and injuries that occur on our highways each year. Aside from enforcement, I would ask that you concentrate on the plight of the victims of drunk driving. Most of us would agree that alcoholism is a disease and that, as such, needs to

be treated but society also deserves to be protected. The drunk drivers must accept the responsibility of his or her actions and they should not look to this legislature for leniency in the form of passive or inadequate legislation. Drunk drivers may, in fact, who need help with their alcohol problems the most will not come to this conclusion until they come face to face with the reality of arrest and conviction. I would argue that in most cases drunk drivers need to be protected from themselves."

This has already been repeated by one of the other Representatives so I will not repeat it. He has already told us what it feels like to go to a house and have to tell the family that they have lost a loved one.

My last statement today is this, drunk drivers need to be helped with their alcohol problems, a swift and certain risk of arrest and conviction will help to get these drivers off the road and perhaps into treatment. The repeat offenders particularly need to be protected from themselves but society also needs protection. Society needs to know that it can drive on Maine roads and highways in relative safety. Strict law enforcement is a must but, even with a 100 percent enforcement, if these provisions do not pass the current legislature, the drunk drivers are able to beat the system to some degree. These provisions can make Maine a state, once again, that says it cares about all its citizens and backs those with definite actions.

The good Representative from Portland, Representative Conley, has stated that we are continually toying and tinkering and doing whatever we can with this. I think that tells us something. I think it tells us that the laws are not strict enough and that the laws are not working adequately and that is what we are down here for, as lawmakers, to make sure that these laws do work to protect the biggest portion of our citizens.

I would urge you to go against the motion on the floor.

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

Representative SCARPINO: Mr. Speaker, Men and Women of the House: We have sat here and heard from people who know people who have lost friends. We have heard from lawyers defending rights, there is only one class of people we haven't heard from yet involved in this issue and that is the drunks. I guess it is my responsibility to stand up and talk to that because I am the only drunk in the place.

For those of you who don't know, my name is Guy Scarpino, I am a drug addict and an alcoholic. I have been an active member of AA since the 13th of March in 1970. I have spent an average of one to two hours a week for the past 18 years in meetings to attempt to keep my illness arrested.

Let's look at how the alcoholic thinks, how he acts and what effect our current laws have on him. The first thing we have is an illness, a habituation, an addiction. Now, the illness is the last thing that gets dealt with, the first thing you have to deal with is the habituation and addiction, neither of which are rational and the individual who is suffering from that habituation and addiction also is not rational. To attempt to deal with that individual in a rational manner is not only foolhardy, it is absolutely guaranteed of failure.

It is a progressive illness. One does not start as a stumbling drunk, one starts with one drink and then over a period of weeks or months or years, it becomes two, three, ten and twenty until it is 24

hours a day. At some point, you cross a line of being a social drinker to being a compulsive drinker. The individual that is doing that, the one thing that he is good at is rationalization and making up of excuses and hiding his illness. He will do it and do it and do it until he is faced with the fact, the absolute, undeniable fact that he has a problem that he cannot deal with. One of the prime factors is forcing people to see that fact. If you don't believe me, come to one of my AA meetings with me, we will be happy to have you. To change the illusion in the alcoholic (or an excessive drinker from being a social drinker to having a problem) is getting arrested and spending two or three days in jail, losing his license, and having to sit there and confront yourself to the fact that you have a drinking problem -- no mirrors, no clouds and no curtains to hide behind.

This bill actively assists both the victim, the innocent non-drinking victim on the street, and the victim of alcoholism. This is a victim's bill in two ways -- it can help the uninvolved person from being hurt and it can help the involved person to overcome their alcoholism.

To get back to the way the person thinks and particularly to the point of the .02 level -- you have to understand, that once you have lost control over your desire for alcohol, if you desire a drink whether the law is .08 or .02, whether your license has been suspended or not, if you have access to a vehicle, be it a ten-wheel truck, a four-wheel car or a two-wheel scooter, you are going to use it to go get a drink. The illness is irrational and so is the person suffering from it. The best thing we can do is lower the level to take the drinker off the roads, to lower the second offense to make sure he stays off the roads and, if by this point, that individual has shown he has no respect for the law nor any ability to control his addiction, take his vehicle away from him to guarantee that he won't use it.

There are those people who say that is kind of harsh. Again, I invite you to come into my AA meeting and listen to the people say, "Thank God, how many times I drove drunk but thank God, I never got into an accident." The very same people, who when they were yelling and screaming and drinking, the last thing they would have wanted you to do, (they would have claimed hardships on themselves, their families, the state and the nation if they thought that it would help them keep their vehicle and keep their access to a drink) these very same people in the process of recovering are saying, "Thank God, I didn't get in an accident. Why didn't my wife or my husband or my father or the state take my vehicle away from me? Why didn't they? There, but for the grace of God go I, I didn't kill somebody."

Obviously, husbands and wives and fathers don't have that ability. Obviously at points, the state won't have that ability but it is something that this state should attempt to do.

In closing, let me say two things, I only have one argument with this bill and that is that it is not strong enough.

In response to the good gentleman from Portland, Representative Conley, who called this bill a lawyer's dream (I will agree with him, it is a lawyer's dream and as most people around here know, I am not too fond of lawyers) but in this case, let me say one thing -- I would much rather vote for a lawyer's dream than continue the current nightmare that exists on our roads. With that, I would urge you to oppose the current motion, let's pass this bill and get it over with.

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

Representative FARNUM: Mr. Speaker, Men and Women of the House: I speak to you from working 30 years in the emergency ambulance squad in South Berwick and North Berwick. I have been to many, many automobile accidents but two stick in my mind and will stick in my mind for the rest of my life.

The first one I had to crawl in through the back window of the car and help pull a woman out through the front of the car because a drunken driver had hit her. It took me almost two hours to do that.

The second accident I went to that involved drunken driving, I couldn't get into the car and no one could get the people out. We spent three hours cutting the car open so these two individuals could be taken out. For two and three hours, we did our best to keep them alive and luckily, we did. I won't say that everyone should be on an ambulance squad and attend such a thing, that is too much, but I feel after these two accidents I reported to you, that this bill should not be abandoned, it should be kept alive.

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

Representative PARADIS: Mr. Speaker, Men and Women of the House: Briefly, we have had a lot of excellent technical information this morning and I complement Representative Scarpino for his excellent presentation on this subject of what goes on in the individual's mind.

We heard from the opponents of this bill on the rights of the individual and I think that is a large part of the problem that our nation faces on this subject. We are concerned with the rights of individuals, we are concerned with the rights of individuals to own cars, to hold a driver's license and yet, I think we are placing our emphasis in the wrong direction. The rights of the victim has hardly been considered and we have heard that in other nations where severe measures are taken with individuals who are found drunk driving or found driving under the influence -- removal of the vehicle, removal of the privilege, removal of all sorts of aspects in order to curtail their activities and to bring a measure of control over the highways. These same nations have a concept, a privilege concerned with vehicles and it is also a privilege to drink, it is not a right to be under the influence. No one has ever been granted that but yet we seem to have assumed it. If a person chooses to drink, that is their privilege.

We heard Mr. Conley talking about the fact that he is not defending the drunk but he is defending the right to drink. The question which is covered here within the bill is, how much is allowed? I think we have heard that described very well. There are limitations on it and it should be very, very small, if any at all. When a person chooses to enter that road or partaking of alcohol, his right is forfeited in another direction and that right is to be behind the wheel of a vehicle. We certainly have plenty of mayhem on our roads, we know that each passing year that, throughout the nation, we lose nearly as many people as were lost in the entire war in Vietnam. That is quite a horrible statistic. We don't have to hear individual horror stories to know the magnitude of that. Look at the numbers, they are there for your examination.

I would urge you not to indefinitely postpone this bill this morning.

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

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

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

Representative SHELTRA: Mr. Speaker, Men and Women of the House: I would like to bring up the point that, as I was bringing up my children, whenever I had to lecture them pertaining to the rights and wrongs of life, the first message I gave them was, "When you do something wrong for the first time, shame on me; when you commit that same error a second time, shame on you."

I disagree with this bill in its present status because of my second assumption. That is the part that deals with the .02, consumption of liquor -- someone being accused or convicted under false pretenses. I think a person should be under the influence of liquor for that second conviction. I understand that there is an amendment coming that would raise that limit from .02 to .05 -- I would then buy this program.

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

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: Just two points that I want to make very briefly and I want to preface my comments by saying that I, for one, appreciate the work that the committee did on this bill. I know that many of them on the committee compromised on a number of issues but I, for one, am very happy with all aspects of this particular bill and I want to tell you why.

Tough drunk driving laws work in this state and that is because it goes to the problem directly and indirectly. It goes after the problem directly because it takes those off the road who are truly impaired, truly incapacitated and unable to function on the road. It also goes after the problem indirectly dealing with the perceptions and the inconsistencies or consistency in the law.

The State of Maine does not view driving any vehicle as a right but as a privilege. We have laws currently on the books that allow officers to keep individuals from driving a vehicle if the inspection sticker has expired or if the equipment on that vehicle poses a threat to the other citizens on the highway. An individual who is drinking and drives is just as much a threat to the other citizens on the highway as a loose bumper or a bent axle. For that reason, I would urge you to vote no on the pending motion.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: I think I made my position known in caucus but I would just like to briefly repeat that.

I will change my stance and support this bill which I thought I was going to oppose and help the enforcement of the OUI laws and get the drunk driver off the road. I want to go one step further and see if we can get the state out of the liquor business. Enough said.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Monmouth, Representative Davis.

Representative DAVIS: Mr. Speaker, Men and Women of the House: If we have had an opportunity to read

our latest publication from the NCSL we would notice that there is an article in there concerning drunk driving. The article tell us that, after steadily declining since 1982, deaths caused by drunk driving are on the rise again.

I call this OUI bill an IOU bill, that is, I, the drunk driver, OU, the people of Maine, especially the victims and their families, an indebtedness which I am unable to repay with material wealth. I think that says it all. The people who do drive intoxicated should be removed from the road for their own good as well as the rest of us.

Mention was made by my good friend from Portland, Representative Conley, that the law we passed four or five years ago concerning the Secretary of State being able to, administratively, remove a license from a drunk driver upon documentation from an arresting officer -- you know what it says in this article, it says that procedure has done more to deter drunken driving than any other process that has yet to come down the road. So, I hope you will vote against the indefinite postponement and pass this bill on its way.

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

Representative JALBERT: Mr. Speaker, Men and Women of the House: Just one closing remark, one thing should be understood here -- OUI, it doesn't say anything about operating under the influence. There is nothing to prevent anyone from going out, as they say, get themselves plastered, bombed, oiled, whatever you want to call it, that is a privilege we even took off the books a few years ago, that you couldn't be intoxicated. It says, go out and get pie-eyed if you want to but don't get behind the wheel of that car, that is all it says.

My young friend, Representative Conley, is half my age and he doesn't remember that years ago, a bunch of men working out in the hay field and on the way home, they had been tapping on the cider in the barn and there was only one car on the road, an old Model T Ford -- you have cars out there now with 100 horse power, if anybody goes to the Holiday Inn at night, you would see what I mean, you have to know what you are doing.

I saw one last week, the gentleman tried to make a U-turn in front of the Senator instead of going through the jug handle -- then he found out that he was supposed to turn in there, he swerved back to the right and headed for the Holiday Inn and I know he parked as close to the cocktail lounge as he could. That is what you ought to do -- if they want to get drunk, there are enough people around, even New Year's Eve you have people who will furnish you with cabs or somebody will take you home.

I have a good wife who likes to drive, it is an ordeal on my part to have to sit there when she is driving, but that is one sacrifice I don't mind making in the name of safety.

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

Representative CURRAN: Mr. Speaker, Men and Women of the House: I know that it is a wise speaker who knows when his audience is falling asleep on him and I am well aware of that.

There are a couple of things that I would like to say, I can't tell you anything as dramatic as Representative Scarpino or some of the others, although I have had an accident victim in my immediate family. My son was hit by a drunk driver and was incapacitated for about a year and a half. You have heard enough stories like that and that is not what I am standing up here to say.

What I want to say to you is this, I can very

well be classed as a social drinker, probably most of you here can, not all of you, but many of you. I am a social drinker so I am very well aware of how I feel when I go home from a banquet, a party, after having a drink on the way home, I am quite aware of that so my testimony is good enough for you to hear if you are not aware of your own circumstances. What bothers me the most here this morning is we keep talking about the drunk and the drunken driving and the alcoholic and people who are so impaired they don't know what they are doing. I think the preponderance of people that we are talking about and should be addressing are the social drinkers like myself and many others, the very people that Representative Conley has so passionately defended. I don't think we should be defended.

I am very disturbed about that. I am disturbed that we are whitewashing the social drinker. That is what Representative Conley, with all due respect to him, has been doing, whitewashing the social drinker. That social drinker is no less a menace with a snoot full in him than the alcoholic is. He is on the other side of the law, no question about it. I am on the other side of the law if I drive home in that condition. He is contemptuous for the peoples' right to live when he is impaired as I am contemptuous for the people's right to live if I am impaired and driving. He is especially contemptuous of the law if he is convicted of such a thing and then drives a car after his license has been suspended. He is most especially contemptuous if he drinks and drives on top of those first acts of contempt.

Let's not be misled at all by arguments in favor of this virtuous social drinker, who may have long since given up his right for sympathy. Let him look out for himself and let him look out for his family as you and I have to do. Let him look out for the consequences of his own acts like the rest of us have to do. It is not enough to say that this person is a nice fellow every day of the year or a nice lady except the day when he smashed up somebody's son. It is not enough to say that he or she is a nice person every day of the year but the day he kills someone's daughter. Representative Conley would have us dignify that by turning a blind eye to it.

This bill is not perfect as plenty of people have said this morning but it is the best one before us. You can go home to your districts as I expect to do in my district and look anyone at all in the eye and every thoughtful person there will thank you and me if we pass this bill out. I urge you to vote no on the pending motion.

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

Representative CONLEY: Mr. Speaker, Men and Women of the House: Even on my birthday, I didn't get this much attention, I can assure you. It sort of reminds me of the day after my brother was married, he woke up the next day and he told me later that his first thought was, "Where have all my friends gone?" Yesterday, I had a lot more support from people that I had talked to and today I apparently stand alone before you. That does not change my view on this bill as a whole. I still think the bill as a whole is very bad but it is obvious to me that people have strong feelings here.

I, therefore, would withdraw my motion and ask that we move forward to the amendment.

The SPEAKER PRO TEM: The Representative from Portland, Representative Conley, withdraws his motion to indefinitely postpone.

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Men and Women of the House: I would like to thank Representative Conley, who I know is deeply concerned with the issues of fairness and the rights of everyone, be that saint or sinner. I appreciate his sincerity on the level in which he conducted this debate.

Mr. Speaker, I would move that the House accept the "Committee Report."

At this point, the Speaker resumed the Chair.

The House was called to order by the Speaker.

Representative Murphy of Kennebunk requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Brunswick, Representative Priest, that the House accept the Committee Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 249

YEA - Aliberti, Allen, Anderson, Anthony, Bailey, Begley, Bickford, Bost, Bott, Boutilier, Bragg, Brown, Callahan, Carroll, Cashman, Clark, H.; Clark, M.; Coles, Cote, Crowley, Curran, Daggett, Davis, Dellert, Dexter, Diamond, Dore, Dutremble, L.; Farnum, Farren, Foss, Garland, Glidden, Gould, R. A.; Greenlaw, Gwadosky, Handy, Hanley, Harper, Hepburn, Hichborn, Hickey, Higgins, Holloway, Hussey, Jackson, Ketover, Kilkelly, Kimball, Lacroix, LaPointe, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Mahany, Manning, Martin, H.; Matthews, K.; McGowan, McHenry, McPherson, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Murphy, T.; Nicholson, Norton, Nutting, O'Gara, Oliver, Paradis, E.; Paradis, P.; Parent, Paul, Perry, Pines, Pouliot, Priest, Reed, Rice, Richard, Ridley, Rolde, Ruhlin, Rydell, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Simpson, Small, Smith, Soucy, Stevens, A.; Stevens, P.; Stevenson, M.; Strout, B.; Strout, D.; Swazey, Tamaro, Tardy, Taylor, Telow, Thistle, Tracy, Tupper, Vose, Walker, Webster, M.; Wentworth, Whitcomb, Willey, Zirkilton, The Speaker.

NAY - Baker, Carter, Chonko, Conley, Duffy, Erwin, P.; Gurney, Hale, Hoglund, Holt, Jacques, Joseph, Mayo, Nadeau, G. G.; Racine, Rand, Rotondi, Warren.

ABSENT - Armstrong, Foster, Hillock, Jalbert, Look, Marsano, Nadeau, G. R.; Paradis, J.; Reeves, Stanley, Weymouth.

Yes, 122; No, 18; Absent, 11; Paired, 0; Excused, 0.

122 having voted in the affirmative and 18 in the negative with 11 being absent, the Committee Report was accepted, the Bill read once.

Committee Amendment "A" (H-669) was read by the Clerk.

Representative Clark of Millinocket offered House Amendment "A" (H-695) to Committee Amendment "A" (H-669) and moved its adoption.

House Amendment "A" (H-695) to Committee

Amendment "A" (H-669) was read by the Clerk.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: Apparently under the present law, people have a star attached to their license if they are an OUI offender. I have been having some complaints from people back in my district because that star has prohibited them from getting a credit reference or whatever it may be and I put this amendment in to eliminate the star off their driver's license.

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

Representative PARADIS: Mr. Speaker, Men and Women of the House: While I sympathize with the comments and the concerns of the gentleman from Millinocket, I hope that you will not support this amendment.

What the amendment would do is take out an entire section of the statutes to deal with color on the background of a license as well as the asterisk that is used to denote that the person has a prior OUI conviction. Many times when police officers stop motor vehicles, the computer is down in the Division of Motor Vehicle in the Secretary of State's Office. The only way they know that a person may have a prior conviction or may be operating after suspension is the fact that they have an asterisk or a color code.

The concerns of the gentleman from Millinocket are legitimate but I would like to remind this body that anyone in business can ask the Secretary of State's Office for a license reference that is public information under the statutes. Insurance companies and other businesses routinely buy from the Secretary of State a person's driving record history and if they really and truly want to use that, they are free to do so under the present laws.

What this amendment would do is simply cripple the law enforcement community's ability to monitor and to understand the previous driving history of the person on the road and the person being stopped presently before them. That is really 99.99 percent of the time where this proviso is used. It tells immediately the history if that officer cannot get in contact with his dispatch and the dispatch cannot get in contact with the computer here in Augusta.

Mr. Speaker, hoping to continue the positive debate that we have had and the positive effects of this legislation, I would urge indefinite postponement of House Amendment "A."

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: I would urge you to vote no on this amendment. What this amendment will do is it will take one of the most important parts of our OUI bill that we are trying to pass here today, out. I believe that a coded license is one of the strong deterrents of this bill. Most of us do not want to have to show a license which is coded because we have been picked up for OUI.

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

Representative PARADIS: Mr. Speaker, Men and Women of the House: I move indefinite postponement of House Amendment "A" to Committee Amendment "A."

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I didn't want to debate this anymore but apparently I am going to have to. I hope you don't go with the indefinite postponement of this amendment. When law enforcement officers make

arrests, I don't believe it is going to interfere with making that arrest on a person for OUI. If the computer system that we deal with with the Secretary of State's Office is that bad, then we ought to get a bill in here to deal with that problem.

I don't think the driver's license that that individual has is going to make one bit of difference whatsoever so I hope you will vote for the amendment.

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

Representative PRIEST: Mr. Speaker, Men and Women of the House: This is not a new provision of law but a provision which has been on the books since 1981 and it is one which we have learned to live with. The concern about whether or not it is legitimate to use a coded license for a credit application or for determining credit is a serious question and I don't deny that it is a serious question. I would point out, however, that God and the Appropriations Committee willing, there will be a commission to review OUI laws and Representative Clark's concerns can be brought up with that commission. I am sure that there are other avenues in which this matter can be approached carefully. I would be very concerned, however, with just striking out of existing law the coded license provision without a very careful look at all of the side effects that that would involve. That has not been done at this point. This may or may not be a good idea but I would urge you to indefinitely postpone the idea at this point and let it be taken up in greater depth and at a later time.

The SPEAKER: The Chair will order a Division. The pending question before the House is the motion of the Representative from Augusta, Representative Paradis, that House Amendment "A" (H-695) to Committee Amendment "A" (H-669) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Murphy of Kennebunk requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Augusta, Representative Paradis, that House Amendment "A" (H-695) to Committee Amendment "A" (H-669) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 250

YEA - Allen, Anderson, Bailey, Begley, Bickford, Bost, Bott, Boutilier, Bragg, Chonko, Coles, Cote, Curran, Daggett, Davis, Dellert, Diamond, Dore, Dutremble, L.: Farnum, Farren, Foss, Garland, Glidden, Gould, R. A.: Greenlaw, Gurney, Gwadosky, Hale, Hanley, Harper, Hepburn, Hichborn, Hickey, Higgins, Holloway, Hussey, Jackson, Jalbert, Ketover, Kilkelly, Kimball, LaPointe, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Mahany, Martin, H.; Matthews, K.: Mayo, McHenry, McPherson, McSweeney, Melendy, Mills, Mitchell, Murphy, E.; Murphy, T.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Paradis, P.; Parent, Paul, Perry, Pines, Pouliot, Priest, Reed, Rice, Richard, Ridley, Rolde, Rydell, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Simpson, Small, Smith, Soucy, Stevens, A.; Stevens,

P.; Stevenson, M.; Strout, B.; Strout, D.; Swazey, Tardy, Taylor, Telow, Thistle, Tracy, Tupper, Vose, Webster, M.; Wentworth, Whitcomb, Willey, Zirkilton.

NAY - Aliberti, Anthony, Baker, Callahan, Carroll, Carter, Cashman, Clark, H.; Clark, M.; Conley, Dexter, Duffy, Erwin, P.; Handy, Hoglund, Holt, Jacques, Joseph, Lacroix, Manning, McGowan, Michaud, Moholland, Nadeau, G. G.; Racine, Rand, Rotondi, Ruhlin, Tamaro, Walker, Warren.

ABSENT - Armstrong, Brown, Crowley, Foster, Hillock, Look, Marsano, Nadeau, G. R.; Oliver, Paradis, J.; Reeves, Stanley, Weymouth, The Speaker.

Yes, 106; No, 31; Absent, 14; Paired, 0; Excused, 0.

106 having voted in the affirmative and 31 in the negative with 14 being absent, the motion did prevail.

Representative Conley of Portland offered House Amendment "C" (H-703) to Committee Amendment "A" (H-669) and moved its adoption.

House Amendment "C" (H-703) to Committee Amendment "A" (H-669) was read by the Clerk.

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

Representative CONLEY: Mr. Speaker, Men and Women of the House: Thank you very much for bearing with me. This amendment is a very simple amendment, I am not going to address the issue at length. It merely removes the forfeiture provision from the bill as the bill presently stands.

The Chairman of the Committee has told you that the forfeiture provision would probably only apply to anywhere from 75 to 150 people as of last year anyway. Again conceptually, I am opposed to introducing forfeiture of vehicles into state law. I believe people have a right to their property, there are families that will be hurt if you allow this forfeiture provision to become law even with the good faith provision that is in there. This concept itself will merely be expanded and, without getting into a lengthy debate about the importance of being able to have your property and not have the government take it, I would ask that you go along with me on this particular amendment.

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

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

I admire the Representative's persistence and courage on this matter. However, I would remind this House that the forfeiture provision is one of the chief provisions for forcing a drunk driver who is out of control for reevaluating himself in trying to determine whether he or she should stop their present pattern that they are in. I would remind you that the forfeiture provision only takes place after there has been an OUI and the person is picked up for OUI the second time and there is probable cause for that and the person is driving under suspension so it is a limited number of people that that forfeiture applies to. If they are operating after suspension, they shouldn't be on the road in the first place and they are operating after suspension while intoxicated so that is even worse. What this does is try to force them to realize that they have got to stop this pattern of behavior, that they have got to reevaluate their lives. There is a hardship waiver provision so if this is going to adversely affect the family of the drunken driver, then that impoundment or sale or the forfeiture can be waived. It seems to me that it is a reasonable provision, it is not overly harsh in view of the grave situation we are dealing with and I would ask you that you support the motion for indefinite postponement.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: I would urge you to support the motion of Representative Priest from Brunswick. This is not a forfeiture, this is an impoundment. The state will impound that car if you so choose. You have the choice if you want them to sell it or what becomes of that. It is only impounded for the length of time that you have lost your license and then you will get it back. It is also only impounded, as Representative Priest said, if you are picked up after first being convicted of OUI and you are driving without a license. This is the good part of our bill and I would urge you to support the pending motion.

Representative Diamond of Bangor requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Brunswick, Representative Priest, that House Amendment "C" (H-703) to Committee Amendment "A" (H-669) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 251

YEA - Allen, Anderson, Bailey, Begley, Bickford, Bost, Bott, Boutilier, Bragg, Carroll, Chonko, Coles, Cote, Crowley, Curran, Daggett, Davis, Dellert, Dexter, Diamond, Duffy, Farnum, Farren, Foss, Garland, Glidden, Greenlaw, Gwadosky, Hanley, Harper, Hepburn, Hichborn, Higgins, Holloway, Hussey, Jackson, Jalbert, Joseph, Ketover, Kilkelly, Kimball, Lawrence, Lebowitz, Lord, MacBride, Macomber, Mahany, Manning, Martin, H.; Matthews, K.; McPherson, McSweeney, Melendy, Mills, Murphy, E.; Murphy, T.; Nicholson, Nutting, O'Gara, Paradis, E.; Paradis, P.; Parent, Paul, Perry, Pines, Pouliot, Priest, Racine, Reed, Rice, Ridley, Rolde, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Simpson, Small, Smith, Soucy, Stevens, A.; Stevens, P.; Stevenson, M.; Strout, B.; Swazey, Taylor, Telow, Thistle, Tupper, Walker, Webster, M.; Wentworth, Whitcomb, Willey, Zirkilton, The Speaker.

NAY - Aliberti, Anthony, Baker, Brown, Callahan, Carter, Cashman, Clark, H.; Clark, M.; Conley, Dore, Dutremble, L.; Erwin, P.; Gould, R. A.; Gurney, Hale, Handy, Hickey, Hoglund, Holt, Jacques, Lacroix, LaPointe, Lisnik, Mayo, McGowan, McHenry, Michaud, Mitchell, Moholland, Nadeau, G. G.; Norton, Rand, Rotondi, Ruhlin, Rydell, Strout, D.; Tamaro, Tardy, Tracy, Vose, Warren.

ABSENT - Armstrong, Foster, Hillock, Look, Marsano, Nadeau, G. R.; Oliver, Paradis, J.; Reeves, Richard, Stanley, Weymouth.

Yes, 97; No, 42; Absent, 12; Paired, 0; Excused, 0.

97 having voted in the affirmative and 42 in the negative with 12 being absent, the motion did prevail.

Representative Conley of Portland offered House Amendment "D" (H-704) to Committee Amendment "A" (H-669) and moved its adoption.

House Amendment "D" (H-704) to Committee Amendment "A" (H-669) was read by the Clerk.

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

Representative CONLEY: Mr. Speaker, Men and Women of the House: This will be my last one I promise you on the OUI debate.

Essentially what this amendment will do is remove the .02 proposal in the present bill and replace it with the .08 provision for a second-time offender. In other words, instead of creating two classes of citizens, those who have been convicted and those who haven't, for the purposes of determining what an acceptable test result would be, this would merely insert the .08 as that level of impairment which this body, obviously, wants to accept as being that level of impairment which a person who is accused of a second offense would have to meet.

Why I believe this amendment is more acceptable to this body than the .02 provision is because I would like to tie this debate to actual impairment. We are saying .08 is what we are going to accept as being the level of impairment for a driver and have it apply to all drivers. The second thing that this amendment would do is for the penalties associated with second-time offenders. I would propose raising that from a seven day mandatory jail sentence to a 10 day mandatory jail sentence and that is what this proposal would do. That would strengthen the law that we presently have on the books and, again, instead of making the second-time offender a second-class citizen, if that person is convicted of a second offense, keep him in jail for a longer period of time.

I would ask that this House go along with this amendment.

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

Representative PRIEST: Mr. Speaker, Men and Women of the House: I continue to admire the persistence of Representative Conley but I would ask that this amendment be indefinitely postpone.

I would also ask for the yeas and nays.

It is unclear to me exactly what the rationale is behind raising the jail term from 7 to 10 days and whether that is going to provide for a significantly greater deterrent effect if you add another 3 days on to the sentence of the second offender. I would ask this House to take into account that there will be an amendment coming up which I would expect to sponsor to increase the .02 to .05 so the cough medicine example which has been brought before you will not be a concern so that there will be actual impairment.

Remember who we are dealing with here, we are dealing with someone who has already been convicted of operating under the influence, someone who has had their license suspended and who has gotten that license back. We are talking about a conditional license and the amendment that I will propose will establish, for the first offense, a one year conditional license at .05. I think that would take care of a lot of concerns.

By striking the provision, as the Representative from Portland does, I think it sends the wrong message. It says essentially if you have been convicted once, we treat you exactly the same as if you had never been convicted. What we are saying here is, if you have been convicted once, your license is conditional because you ought to take a look at your drinking habits, you ought not to drink and drive because you have already shown once that you are not capable of handling it. We are not saying that this is for the rest of your life but what we are saying is, at least for a period of a year, that you need to get control of yourself, you need to get control of your drinking. I think the amendment will satisfy most of the concerns here.

I think Representative Conley's amendment goes

too far in the jail term because it has not been shown that it makes any difference. I think striking the .02 would do a disservice to the bill. I would ask you to support the motion for indefinite postponement.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Brunswick, Representative Priest, that House Amendment "D" (H-704) to Committee Amendment "A" (H-669) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 252

YEA - Allen, Anderson, Anthony, Bailey, Begley, Bickford, Bost, Bott, Boutilier, Bragg, Carroll, Clark, H.; Clark, M.; Coles, Cote, Crowley, Curran, Daggett, Davis, Dellert, Dexter, Diamond, Dore, Dutremble, L.; Farnum, Farren, Foss, Garland, Glidden, Gould, R. A.; Greenlaw, Gwadosky, Hale, Hanley, Harper, Hepburn, Hichborn, Higgins, Holloway, Hussey, Jackson, Jacques, Jalbert, Ketover, Kilkelly, Kimball, LaPointe, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Manning, Martin, H.; Matthews, K.; McHenry, McPherson, McSweeney, Melendy, Mitchell, Murphy, E.; Murphy, T.; Nicholson, Nutting, O'Gara, Paradis, E.; Paradis, P.; Parent, Paul, Perry, Pines, Pouliot, Priest, Reed, Rice, Richard, Ridley, Rolde, Rotondi, Rydell, Salsbury, Scarpino, Seavey, Sherburne, Simpson, Small, Smith, Soucy, Stevens, A.; Stevens, P.; Stevenson, M.; Strout, B.; Strout, D.; Swazey, Taylor, Telow, Thistle, Tupper, Walker, Webster, M.; Wentworth, Whitcomb, Zirkilton, The Speaker.

NAY - Aliberti, Baker, Brown, Callahan, Carter, Cashman, Chonko, Conley, Duffy, Erwin, P.; Gurney, Handy, Hickey, Hoglund, Holt, Joseph, Lacroix, Mayo, Michaud, Mills, Moholland, Nadeau, G. G.; Norton, Racine, Rand, Ruhlin, Sheltra, Tamarro, Tardy, Tracy, Vose, Warren, Willey.

ABSENT - Armstrong, Foster, Hillock, Look, Mahany, Marsano, McGowan, Nadeau, G. R.; Oliver, Paradis, J.; Reeves, Stanley, Weymouth.

Yes, 105; No, 33; Absent, 13; Paired, 0; Excused, 0.

105 having voted in the affirmative and 33 in the negative with 13 being absent, the motion did prevail.

The SPEAKER: The pending question now is adoption of the Committee Amendment "A."

On motion of Representative Diamond of Bangor, tabled pending adoption of Committee Amendment "A" and later today assigned.

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

Bill "An Act to Authorize the Annexation of Cove Point Township by the Town of Greenville" (H.P. 1929) (L.D. 2629)

TABLED - April 13, 1988 (Till Later Today) by Representative CARROLL of Gray.

PENDING - Passage to be Engrossed.

Representative Gould of Greenville offered House Amendment "A" (H-697) and moved its adoption.

House Amendment "A" (H-697) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by

House Amendment "A" and sent up for concurrence.

BILL HELD

Bill "An Act Concerning the Authority of the Maine Municipal Bond Bank to Issue Certain Bonds and to Establish and Administer a Revolving Loan Fund" (S.P. 992) (L.D. 2625)

- In House, Passed to be Engrossed as amended by Committee Amendment "A" (S-448) in concurrence.

HELD at the Request of Representative CARTER of Winslow.

On motion of Representative Carter of Winslow, the House reconsidered its action whereby L.D. 2625 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-699) and moved its adoption.

House Amendment "A" (H-699) was read by the Clerk.

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

Representative CARTER: Mr. Speaker, Men and Women of the House: Briefly, this amendment does two things, it allows the municipal officers to refinance in the calendar year '88 only debts owed to the U.S. Farmers Home Administration without the approval of their legislative body providing there is a net savings to that municipality. It will also make an emergency out of this bill.

Subsequently, House Amendment "A" (H-699) was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-448) and House Amendment "A" (H-699) in non-concurrence and sent up for concurrence.

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

COMMUNICATIONS

The following Communication: (S.P. 995)
COMMITTEE ON AUDIT AND PROGRAM REVIEW
ONE HUNDRED AND THIRTEENTH LEGISLATURE

April 11, 1988

Honorable Charles P. Pray, Chairman
Honorable John Martin, Vice Chairman
Legislative Council
113th Maine State Legislature
Augusta, Maine 04333

Dear Chairman Pray and Vice Chairman Martin,

As is customary, we are writing to you and the Legislative Council to provide you with a brief list of the agencies and topics that the Joint Standing Committee on Audit & Program Review will be reviewing during the upcoming year.

As required by law (3 MRSA §507), the following departments are scheduled for evaluation and analysis:

Maine State Retirement System;
Department of Labor; and
Department of Administration but limited to the Bureaus of Human Resources, Employee Relations and Public Improvements.

Similarly, the Committee will be considering the need to continue the following independent agencies:

Board of Trustees, Group Accident and Sickness or Health Insurance;
Maine Labor Relations Board;
State Civil Service Appeals Board;
Educational Leave Advisory Board;
Workers' Compensation Commission; and
State Board of Accountancy.

As reflected in our most recent review effort (LD 2602), the Committee has recommended that the following independent agencies be continued for one year only, to afford the Committee an additional

opportunity to address issues of importance concerning these agencies:

- State Board of Social Worker Licensure;
- and
- Electricians' Examining Board.

Finally, in accordance with the provisions of 3 MRSA §507-A, the Committee has administratively recommended that its review of child welfare services be continued for another year.

Please let us know if we can provide any further information.

Sincerely,

S/Beverly M. Bustin S/Neil Rolde
Senate Chair House Chair

Came from the Senate, read and ordered placed on file.

Was read.

Subsequently, the Communication was indefinitely postponed in non-concurrence and sent up for concurrence.

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

PASSED TO BE ENGROSSED
WITHOUT REFERENCE TO COMMITTEE

Bill "An Act to Authorize Knox County to Raise up to \$4,900,000 to Construct a New Jail and Law Enforcement Facility" (H.P. 1932) (L.D. 2633) (Presented by Representative MELENDY of Rockland) (Cosponsors: Representatives ALLEN of Washington, TAYLOR of Camden and Senator BRAUN of Knox) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(The Committee on Reference of Bills had suggested the Committee on State and Local Government).

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

By unanimous consent, ordered sent forthwith to the Senate.

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

COMMUNICATIONS

The following Communication:

Executive Department
DIVISION OF COMMUNITY SERVICES
State House Station 73
Augusta, Maine 04333
April 1, 1988

The Honorable John L. Martin
Speaker of the House
Maine House of Representatives
State House Station #2
Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Title 22 M.R.S.A. Section 5204(3), I am submitting to the 113th Legislature a report on Maine's Home Energy Assistance Program for the year 1986-87.

I would be happy to answer any questions you may have concerning this report.

Sincerely,
S/Nicola C. Kobritz
Director

Was read and with accompanying report ordered placed on file.

ENACTOR

An Act to Expand the Property Tax Circuit Breaker Program (H.P. 1882) (L.D. 2574) (C. "A" H-652)

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

On motion of Representative Cashman of Old Town, under suspension of the rules, the House reconsidered its action whereby L.D. 2574 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-652) was adopted.

The same Representative offered House Amendment "A" (H-702) to Committee Amendment "A" (H-652) and moved its adoption.

House Amendment "A" (H-702) to Committee Amendment "A" (H-652) 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 "A" as amended by House Amendment "A" thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act to Improve Services for Maine's Elderly" (S.P. 943) (L.D. 2490) on which the Majority "Ought Not to Pass" Report of the Committee on Taxation was read and accepted in the House on April 12, 1988 and which was tabled earlier in the day and later today assigned pending a request from the Senate for a Committee of Conference.

On motion of the Representative Cashman of Old Town, the House voted to adhere.

(At Ease)

The House was called to order by the Speaker.

On motion of Representative Cashman of Old Town, the House reconsidered its action whereby it adhered to its former action whereby the Majority "Ought Not to Pass" Report of the Committee on Taxation was read and accepted in the House on April 12, 1988 on Bill "An Act to Improve Services for Maine's Elderly" (S.P. 943) (L.D. 2490).

(Came from the Senate with that Body having insisted on its former action whereby the Minority "Ought to Pass" Report of the Committee on Taxation was read and accepted the the Bill passed to be engrossed as amended by Senate Amendment "A" (S-432) and asked for a Committee of Conference in non-concurrence.)

Subsequently, on motion of Representative Cashman of Old Town, the House voted to join in a Committee of Conference.

The Chair appointed as Conferees:
Representative Cashman of Old Town
Representative Rydell of Brunswick
Representative Seavey of Kennebunkport

(Off Record Remarks)

On motion of Representative Clark of Brunswick, Recessed until two o'clock in the afternoon.

(After Recess)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 6 was 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. 1703) (L.D. 2340) Bill "An Act to Promote Economic Development in the State by Enhancing Employment Opportunities for Maine People" Committee on Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (H-705)

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

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

SENATE PAPERS

RESOLVE, Authorizing Exchange of Certain Public Reserved Land (S.P. 996) (L.D. 2632)

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

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

Unanimous Leave to Withdraw

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Maximize the Effectiveness of Funds Appropriated for Long-Term Care" (S.P. 789) (L.D. 2066)

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act Concerning the National Bicentennial Competition" (Emergency) (S.P. 905) (L.D. 2351)

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

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

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative RYDELL from the Committee on Banking and Insurance on Bill "An Act to Provide for Competitive State Funding of Workers' Compensation" (H.P. 617) (L.D. 835) reporting "Leave to Withdraw"

Representative RYDELL from the Committee on Banking and Insurance on Bill "An Act to Require Insurance Companies who Sell Workers' Compensation to Provide Certain Other Services" (H.P. 825) (L.D. 1116) reporting "Leave to Withdraw"

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

CONSENT CALENDAR

First Day

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

(S.P. 761) (L.D. 2024) Bill "An Act to Prohibit

the Sale of the Substance Amyl Nitrite, Commonly Referred to as 'Rush' or 'Lockerroom,' to Minors" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-455)

(S.P. 847) (L.D. 2203) RESOLVE, Establishing the Commission to Study the Status of the Nursing and Health Care Professions in Maine Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-454)

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

COMMUNICATIONS

The following Communication:

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
COMMITTEE ON LABOR

April 13, 1988

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 Committee on Labor during the Second Regular Session of the 113th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	21
Unanimous reports	15
Leave to Withdraw	7
Ought to Pass	1
Ought Not to Pass	0
Ought to Pass as Amended	1
Ought to Pass in New Draft	6
Divided reports	6

Respectfully submitted,

S/Dennis L. Dutremble

S/Edward A. McHenry

Senate Chair

House Chair

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
COMMITTEE ON BUSINESS LEGISLATION

April 13, 1988

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 Committee on Business Legislation during the Second Regular Session of the 113th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	34
Unanimous reports	30
Leave to Withdraw	11
Ought to Pass	2
Ought Not to Pass	2
Ought to Pass as Amended	11
Ought to Pass in New Draft	4
Divided reports	4

Respectfully submitted,

s/John E. Baldacci

s/Carol M. Allen

Senate Chair

House Chair

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
COMMITTEE ON FISHERIES AND WILDLIFE
April 14, 1988

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 Committee on Fisheries and Wildlife during the Second Regular Session of the 113th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	16
Unanimous reports	14
Leave to Withdraw	3
Ought to Pass	2
Ought Not to Pass	1
Ought to Pass as Amended	4
Ought to Pass in New Draft	4
Divided reports	2

Respectfully submitted,
s/Edgar E. Erwin s/Paul F. Jacques
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication:
STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE
April 13, 1988

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 Committee on Agriculture during the Second Regular Session of the 113th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	28
Unanimous reports	24
Leave to Withdraw	9
Ought to Pass	2
Ought Not to Pass	0
Ought to Pass as Amended	6
Ought to Pass in New Draft	7
Divided reports	4

Respectfully submitted,
s/Zachary Matthews s/Robert Tardy
Senate Chair House Chair
Was read and ordered placed on file.

(At Ease to the Gong)

The House was called to order by the Speaker.

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

SENATE PAPERS

The following Communication:
Maine State Senate
Augusta, Maine 04333
April 14, 1988

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 Thomas A. Dukes, Jr. of Temple for appointment as the Student Trustee on the University of Maine, Board of Trustees. Thomas A. Dukes, Jr. is replacing Teresa Moore.

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

Was read and ordered placed on file.

The following Communication:
Maine State Senate
Augusta, Maine 04333
April 14, 1988

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 Agriculture, the Governor's nomination of Dr. Katherine O. Musgrave of Orono for appointment to the Maine Milk Commission.

Dr. Musgrave is replacing Carl Schwinn.
Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

The following Communication:
Maine State Senate
Augusta, Maine 04333
April 14, 1988

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 Agriculture, the Governor's nomination of Charles F. Davis of South Gouldsboro for appointment to the Maine Milk Commission.

Charles F. Davis is replacing Ralph Townsend.
Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

COMMUNICATIONS

The following Communication:
STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
JOINT SELECT COMMITTEE ON CORRECTIONS
April 13, 1988

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 Committee on Corrections during the Second Regular Session of the 113th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	2
Unanimous reports	1
Leave to Withdraw	0

Ought to Pass 0
 Ought Not to Pass 0
 Ought to Pass as Amended 1
 Ought to Pass in New Draft 0
 Divided reports 1

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

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 reporting "Ought to Pass" as amended by Committee Amendment "A" (H-701) on Bill "An Act to Increase the State's Share of Education Costs" (H.P. 272) (L.D. 355)

Signed:

Senators: ESTES of York
 KANY of Kennebec
 Representatives: KILKELLY of Wiscasset
 O'GARA of Westbrook
 HANDY of Lewiston
 MATTHEWS of Caribou
 PARADIS of Frenchville
 OLIVER of Portland
 BOST of Orono

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

Signed:

Senator: RANDALL of Washington
 Representatives: LAWRENCE of Parsonsfield
 SMALL of Bath
 NORTON of Winthrop

Reports were read.

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

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

You have before you what is undoubtedly the most important initiative in terms of its scope to emerge from the Education Committee this session. After many weeks of deliberations within the committee, the bipartisan majority has agreed upon a bill which essentially accomplishes two major objectives. First, to increase the amount of state aid to school districts across this state and secondly, to provide meaningful, permanent property tax relief to Maine municipalities.

Getting to this point, however, has not been an easy task. We have waded through graphs, charts, printouts, comparing as many as five funding alternatives before determining what the best course of action would be. It is important that members of this House have some historical perspective on the school funding issue before we proceed with specifics.

The bill before you, in its original form, was the result of the recommendations of the Speaker's Select Committee on Property Tax Reform. The legislation called for an increase in the state's share of the cost of education to 60 percent in 1989-90 and 65 percent by 1991. As those of you who have spoken with either Representative Cashman or myself over the last few months know raising the state's share has been a top priority.

L.D. 355, when it was heard last year, attracted one of the largest and most diverse groups of supporters that I have seen in my six years in the legislature. I would like to briefly quote from some of the testimony at that hearing. From the President

of the Maine School Superintendents Association, "I am supporting this bill because it is going in the right direction. The need for greater state share of education costs is immediate and urgent."

From the Principal at Dexter Regional High School, "If we are all trying to improve the quality of education in Maine so that not only the individual student benefits but the overall economic climate is improved throughout the state, then the time has come for a more complete and equitable partnership between the state and its resources and the locals and their resources."

From School Union #47 in Bath, "Bath has a high percentage of people on fixed incomes. Clearly, there is a need for tax relief to meet the added expenses produced by state mandated salaries and programs. I urge you to increase our state subsidy."

From SAD #27, Fort Kent, "The Education Reform Act will improve the quality of education in the State of Maine. However, it is imperative that the Reform Act not increase the burden on the local property tax. Should the property tax be forced to pay for the Reform Act, it can be expected that there will be an enormous amount of taxpayer unrest over significant property tax increases."

From the Maine School Boards Association, "On behalf of the over 280 local school boards that make up the Maine School Boards Association, we are here to, not only support an increase in the state's share of public education costs, but to convey a very real sense of urgency to that increase."

From the Maine Superintendents Association, "The increasing pressure on local property taxes caused by the loss of revenue sharing, the cost of up-front funding of a disproportionate share of the cost of school reform and increased teacher salaries, coupled with other demands such as solid waste disposal, must be relieved. We believe that increasing the state's share of education subsidy is one of the first steps that should be taken to stabilize the property tax."

Finally from the Representative from the AARP, "The legislature in recent years has mandated certain improvements to the educational system statewide but has not, up to now, voted additional funding to meet the added costs implicit in these mandates. This falls most heavily on those with fixed incomes, social security and pensions."

Due to the lack of funds and the pending school funding task force, L.D. 355 was held over in the Education Committee last year. In the interim, I, along with several other members of this legislature, participated in the Commissioners Task Force on School Finance. We met through the summer and fall of 1987 and reported our findings in October of last year. But the report was far from unanimous, far from conclusive. Believing in the importance of increasing the state's share of education costs, seven members supported inclusion of a Minority Report on that concept. Supporters included the Representatives of the Maine School Boards Association, Maine School Principals Association, Maine School Management Association, Maine Teachers Association, Tim Honey from the University of Southern Maine Public Policy and Management Program, Senator Estes and myself. Had the Maine Municipal Association been allowed to participate on the task force, we might have transformed the Minority Report into a Majority Report, we will never know. What we do know is that the Maine Municipal Association participated in the Select Committee on Property Tax Reform and will be given an opportunity to participate in the funding study proposed in the Majority Report and that the MMA, in its recent mailing to municipalities, has endorsed the Majority

Report. So has the Portland Press Herald in today's edition.

When I indicated that the process of getting to this final bill has been frustrating, that is a bit of an understatement. The first example of frustration was the School Funding Task Force itself. There was a determination from the very beginning that an increase in the state's share would not be considered. It was only considered when several members of the task force insisted on it.

The second example is one of raw data, the accuracy of which this legislature depends upon in order to make sound decisions.

Yesterday, the committee requested figures on where each school unit would be next year under the Majority and the Minority plans. We were told that those could not be factored on a unit-by-unit basis but only on a statewide basis. Those figures were supplied to us and, much to our surprise, there was only a \$74,000 difference in the second year which contradicted the figures that we had been operating with. The Office of Policy and Legal Analysis today examined those figures and discovered a \$12 million error, so the process has not been an easy one.

Let me briefly describe what the report now under consideration does. In order to provide the maximum amount of equity to schools, we incorporated the substantive recommendations of the School Funding Task Force into our report and then recommended that the state's share of the School Funding Formula be raised to a level of 58 percent. Specifically, the elements of the task force that are included in the bill are: one, the establishment of a new method of determining and reporting the local share percentage and the state's share percentage of each school units subsidizable cost. In other words, if there are three parts of money, there is a different percentage for each part and those will be identified for easier assessment.

Secondly, the updating of the two year old local education cost for the purpose of determining current year allocations -- in other words, the inflation update can be no less than the inflation update for the last two years and that includes new program costs which is the biggest factor in recent increases due to a number of reforms that this legislature has passed.

Thirdly, protection for individual units from declining state aid -- a five percent minimum base to all units. This is intended, as is the inclusion in the Minority Report, to address those non-receiving units that have been crying out for help and also provide a framework whereby those units can feel better, perhaps, about participating in areas such as education reform initiatives.

Fourthly, we have built in a whole harmless provision to take effect next year because, under the Majority Report, three out of the four towns that were affected by the whole harmless money included in the original package are taken care of, particularly the City of Portland, that has been encountering lately, a problem with its taxation rate.

Fifthly, and very importantly, we have incorporated a study of the school funding and property tax laws to be done jointly by the Legislative and Executive Branches to analyze the equity of the current law and to report back to the first session of the 114th Legislature. This is a particularly notable component of the Majority Report because we believe, and most of the people that we have talked with during the deliberations on these bills have agreed, that the issue of revamping the school funding formula is a very complex one, one that was not resolved by the submission of the task

force report. It is an ongoing issue and one that we believe, as a legislature, needs to be addressed as soon as the first regular session of the 114th Legislature reconvenes.

In summation, I believe that this report is a positive step forward, one which hopefully everyone here can embrace. I sincerely believe that anytime that we have an opportunity in this chamber to increase our commitment to education, I think we should do so.

I urge you to support the bipartisan 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: L.D. 355 is the Governor's Education Enhancement Bill with one conditional addition and I stress conditional. If the money is available, the formula will be increased from 56.9 percent to 58 percent. This addition will cost \$10.6 million but the enhancement changes in the bill are already included in the Governor's budget.

Now, I wholeheartedly support the provisions of the enhancement bill which are now in 355. Indeed, I sponsored the original educational enhancement legislation and I am now pleased to see all of the provisions of the original bill embraced in L.D. 355, a holdover bill from last session.

I think it is important that we take a moment to recognize what the recommendations of the Governor's Task Force on the School Funding now in L.D. 355 will do for our schools. The three major parts of the bill are the two year old update change, the minimum five percent base and the whole harmless provision.

The minimum five percent guarantees every district will receive some money from the state to help pay the cost of education. This will help towns which, because of the high property evaluation, receive no state support but still must comply with the costly provisions of the Reform Act of 1984.

The whole harmless clause will again assist towns and cities which are losing state dollars because of soaring evaluations. Simply put, no town will receive less than 75 percent of last year's state subsidy. The state's share will still decrease but at a slower rate which will allow locals to plan for the necessary local increases.

The most important part of the bill to most schools is the two year update. Currently, the Education Commissioner uses two year old budget costs submitted by our superintendent's and then updates these figures using indices such as Consumer Price Index, etcetera. While these figures may reflect inflationary rises, they are not always reflective of the actual rate increases in our local budgets. Obviously, our school costs have risen at a far greater rate than other inflationary indicators. So, instead of updating costs by the usual 6 percent, the commissioner will look at the budget experience for '86-'87 and set an update figure at a more realistic 10 percent, an increase which benefits all of our school districts.

Where the committee divided was not on the Governor's Enhancement Bill but on how to spend an additional \$11 million which, legend has it, is sitting in Appropriations with our name on it. I am a strong proponent of sending back as much money as we have available. If my chair says there is \$11 million to be spent in addition to the \$23 million the Governor budgeted, I am certainly willing and anxious to send it out to our school systems. Where we differ in committee is how to send out the potential \$11 million.

The plan in L.D. 355 puts \$11 million into the

formula and increases the state's share to 58 percent. Another bill that will be coming forthwith is L.D. 2201, which is the original educational enhancement bill and that takes \$11 million and sends it out through the two year update formula. So, instead of increasing the two year cost by 10.8 percent, the increase will be 14.67 percent.

The difference in the two methods of returning funds to our local districts may seem petty to you but, if you look at the printouts being circulated, you will notice a common theme in those who benefit under one report or the other. L.D. 355 benefits the wealthier towns and L.D. 2201 favors an across-the-board increase for schools and favors the poorer districts. On one printout, the districts are listed in order of per pupil evaluation, the best indicator we have of a district's wealth. The wealthiest towns are on the first pages and numerically decline on subsequent pages. On the last two pages, the poorest towns, they do better under 2201. Virtually every town and city in Aroostook and Washington County benefits under 2201.

I am afraid if we pass 355 and an \$11 million funding mechanism, it will only greater increase the disparity between the have's and the have not's.

There is also the problem of whether we have \$11 million extra to spend. Depending who you ask, we have it, we don't. It is spent or it is needed for other programs. I just don't know if it is there, but if it is, I want it. However, L.D. 355 is, as our chairman stated, an all or nothing bill. 58 percent requires \$10.6 million. If only \$4 million is available, are we going to set in statute the state's share must be 57.4299 percent? Under L.D. 2201, it allows the Appropriations Committee greater flexibility. If \$3 million is available, it will be dispersed through the two year update percent. If \$6 million, the same.

L.D. 355 also has a legislative study to further study the formula because of concerns of how the formula distributes money. If we are going to study and recommend changes, why are we setting in statute an increase which may need to be changed next session?

Now, after listing my reservations with L.D. 355 and my preferences for 2201 coming shortly, I am in the position (I think) to offer a compromise, because with either bill, school's benefit and because the Governor's enhancement package is in both bills and already in the budget, we all win. Even if L.D. 355 passes, we all win, some a lot more than others, the richer more than the poorer, but we all win.

My compromise is to accept the Majority Report on L.D. 355 and send it to the Appropriations Table. I would ask that this House also accept L.D. 2201 and send that to the Appropriations Table for them to decide how the potential of the additional \$11 million, if it is there, be sent out, and let the issue of equity be resolved in Appropriations. So, I urge the acceptance of L.D. 355 and will ask the legislature to also accept L.D. 2201 when it comes to this House for a vote.

Representative Paradis of Old Town 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 Bost of Orono,

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

ROLL CALL NO. 253

YEA - Aliberti, Allen, Anderson, Anthony, Armstrong, Bailey, Begley, Bickford, Bost, Bott, Boutilier, Bragg, Brown, Callahan, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Curran, Daggett, Davis, Dellert, Dexter, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnum, Farren, Foss, Foster, Garland, Glidden, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Hale, Handy, Hanley, Harper, Hepburn, Hichborn, Hickey, Higgins, Hoglund, Holloway, Holt, Hussey, Jackson, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Kimball, Lacroix, LaPointe, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McPherson, McSweeney, Melendy, Michaud, Mitchell, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nicholson, Norton, Nutting, O'Gara, Oliver, Paradis, E.; Paradis, P.; Parent, Paul, Perry, Pines, Pouliot, Priest, Racine, Rand, Reed, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Salisbury, Scarpino, Seavey, Sheltra, Sherburne, Simpson, Small, Smith, Soucy, Stanley, Stevens, A.; Stevens, P.; Stevenson, M.; Strout, B.; Strout, D.; Swazey, Tardy, Taylor, Telow, Thistle, Tracy, Tupper, Vose, Walker, Warren, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton, The Speaker.

ABSENT - Baker, Crowley, Hillock, Look, Mahany, Mills, Nadeau, G. R.; Paradis, J.; Reeves, Rice, Tamaro.

Yes, 140; No, 0; Absent, 11; Paired, 0; Excused, 0.

140 having voted in the affirmative and none in the negative with 11 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-701) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time and passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Education reporting "Ought Not to Pass" on Bill "An Act to Promote the Enhancement of Education in Maine" (Emergency) (H.P. 1610) (L.D. 2201)

Signed:

Senators: ESTES of York
KANY of Kennebec
Representatives: BOST of Orono
KILKELLY of Wiscasset
O'GARA of Westbrook
HANDY of Lewiston
MATTHEWS of Caribou
PARADIS of Frenchville
OLIVER of Portland

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-706) on same Bill.

Signed:

Senator: RANDALL of Washington
Representatives: LAWRENCE of Parsonsfield
SMALL of Bath

NORTON of Winthrop

Reports were read.

Representative Diamond of Bangor moved that the House accept the Minority "Ought to Pass" Report.

The same Representative requested a roll call vote on that motion.

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

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

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

Representative HANDY: Mr. Speaker, Members of the House: I hope you will oppose the motion before us today. This is, indeed, an inferior bill compared to the one we earlier passed.

I thought the Representative from Old Town asked for a quorum call, I wasn't sure, but when the lights went up it surely looked that way.

This bill, I think, is the \$11 million stipend. It is a one-shot, one-time deal. If you want to vote to put your communities on the line and then pull the rug out from under them, then that is how you would vote if you support this motion. I hope you will oppose the motion before us so that the previous bill that we passed can go to the Appropriations Table. Send the message to the Appropriations Table and to the people of the State of Maine that we are willing to make a commitment, not simply a request for property tax relief and education funding.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: First of all, as the original sponsor of the L.D. that we just passed in accepting the previous report, I would like to thank the members of the Education Committee for the fine work they did and the long hours they put in to a very difficult issue.

I must say that I am a bit disappointed in the Minority Report on this bill that has been moved by, strangely enough, my good friend from Bangor. This report would provide only a one year stop-gap type of funding. It doesn't address the long-term problem of education finance. It is just addressing one year. It doesn't pass a straight-face test. It is a half a bandaid. It is a "rattle your teeth and hold on to your school board report." I would hope that the House would oppose the motion to accept the Minority Report.

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

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I know that there has been some misinformation being circulated here and it is our intention that this bill not be a one-time deal but whatever money is appropriated this year be repeated next year and the year on after that.

Should we get this bill out of first reader and into second reader, I would propose an amendment that will allow this \$11 million or \$6 million or \$3 million or whatever Appropriations feels that they can give us in addition to the \$23 million already in the Governor's budget, that that money be carried over and continued. It was never our intention that this be a one-time deal. I would propose an amendment that would allow the increase.

I know that legislators have seen information on what this will do for districts and it is really

important to understand that, under 2201, the poorer districts do better. I have a list here, as I said, of the towns according to their evaluation per pupil. The richer towns are on the front page and the poorer towns are on the last page.

The last two pages, virtually every single one, does better under the Minority Report. I highlighted some of them. Auburn does \$50,000 better, Sanford does \$66,000 better, Searsport \$19,000, Buxton \$78,000, Oakland \$40,000, Belfast \$53,000, Livermore Falls \$28,000, Ashland \$13,000, Anson -- I don't even know where some of these towns are so I am not picking on any legislator's district -- Anson gets \$28,000 more, Howland -- then on the back page, Farmington, Eddington, Pittsfield, Presque Isle, Harrington, Guilford, Turner, Thorndike, Hampden -- I mean these were the big ones, but virtually every town in Aroostook County and Washington County does better under 2201 because by going into the formula the 58 percent for some reason it benefited the higher valuation towns.

I think it is important in terms of equity that we look seriously at a bill that distributes the money to the poorer towns as well as the richer or else we are going to have even a greater increase between the two Maine's.

I hope that you will accept this Minority Report, allow it to go down to Appropriations. I certainly trust my Appropriations Committee to come up with the best report for this legislature or I wouldn't be offering two reports. I would have asked to have them vote against 355. I hope that you will at least allow this go down, allow it to go into second reader so I can amend it and make sure that this money, whatever is appropriated in addition this year, goes on for subsequent years and then we will send it down to Appropriations and allow them to decide which report is equitable and best for our Maine children.

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

Representative NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: As much as I appreciate my good friend Representative Small's confidence and trust in the Appropriations Committee, I wanted to rise today to just give you one thing to think about. At the moment, we have got city councils and selectmen and school boards across the state attempting to put together their budgets as we in this legislature are trying to put together ours. I suspect they are sort of hanging, waiting to find out exactly what they can expect in the way of assistance for their own budget year. So right now, they are sort of hanging around waiting to find out what we are going to do.

I think the advantage to the Majority Report, among other advantages that have been outlined today, is the fact that they will know what to expect next when they get into their budget process. Under the Minority Report that we are considering at the moment, I think what I hear Representative Small saying is that we are going to come back next year and basically go through this process again and determine how much money we are going to be able to come up with next year. So it really does put city councils and school boards at somewhat of a disadvantage. I think the formula, and I agree there are definite shortfalls in it and have to be addressed in other ways, at this particular junction and moment in time, the Majority Report, I think, does begin to address some of the long-term considerations. I do want to caution that we do have to look at the formula even further.

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

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: Just to correct some more misinformation. The formula changes and adjusts every year. Whatever Bath receives this year under the formula will not necessarily follow next year, it depends what they spent two years ago and a number of other factors. Just by saying we are going to put into the formula is not going to make it any easier for Bath to predict next year what they will receive.

Also, as far as the money going through the two year update, that is a figure that has changed, the percentage update has changed every year and it is set by the commissioner, it has to be approved by the State Board and has to be approved by this Legislature. That figure is not a guaranteed number every year, it fluctuates according -- before it was set, as I said, by consumer indexes and other things. Quite frankly, I think it was also set by a Governor's budget. If he had more money to go into other programs, he might skimp a little bit on the two year update inflationary costs. What we have said in this is that it has to be a minimum of at least the average of the two previous years so we are setting it more in statute. There is still going to be flexibility in there for the commissioner. There is no way that we will be able to predict what the future costs will be for the town under either, either, one of the bills. So, I am not sure that is really a legitimate argument.

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

Representative DIAMOND: Mr. Speaker, Men and Women of the House: I am a little surprised that my friend from Bath is suggesting that her proposal which was worked on in committee for so long and which I just moved before this body be amended, that for some reason, it is not the perfect vehicle that was submitted by the minority on the Education Committee. That surprises me because I thought in her presentation on the previous bill that she wanted to propose an alternative and I guess I assumed, along with so many other people here, that she was comfortable with the work that the Minority on the Education Committee had done. That appears not to be the case.

I think what we are finding is that there is a bidding war taking place by a few members of that committee. They realize that the Majority Report that was adopted on the previous bill was something that does make sense, it is something that is fair to our municipalities and it is a long-term plan. We all know how important long-term plans are around this body. I think that by going with a short-term, a quick fix that has been proposed in the bill, serious consequences could come as a result. That is why I believe the legislator, my good friend from Bath, feels the need to suggest that her bill, if the "Ought to Pass" Report is adopted, be amended.

I find it difficult to go along with a suggestion, in the long run, that would adopt that plan. While I am willing to hear what they have to say and willing to send it to the table as, obviously some of you are, I realize what is going on here. We want a vote for all our pockets. We want to be able to say, I voted for the long-term plan even though in committee I didn't support it, even though my party did not support it. Then we also want to be able to say that yes, I voted for more money for my town too, even though it didn't pass, even though a majority of the committee didn't want it.

I look at the numbers on this sheet provided by the majority of the Education Committee and I realize how well my city of Bangor does. I look at the numbers and see how well my friend from Bath's city

does under our plan and I am surprised she is not supporting it. Actually, she did support it on that last bill, she will have the roll call to prove it.

I wonder how anybody can pursue that plan and not question whether or not we are really going to be able to deal with it unless we put some teeth into it. In order to put teeth into this bill or any bill, you have to have the language in law. We all know how quickly these verbal agreements or these so-called understandings around here can dissipate. We don't want that to happen. That is why on that previous bill we dealt with, the majority of the Education Committee felt it was important to put some teeth into this law, to state explicitly what the case was going to be, where the money is going to come from, what the money is going to be assuming it is funded but also to establish a policy that says explicitly what this direction is going to be.

We don't have that in the bill we are debating and even though I am willing to accept the Minority "Ought to Pass" Report, I am not doing so because I need a vote for either pocket. Everyone knows I am not going to need votes for any pocket after this year. I do think we have to realize that we have got to look at the issues seriously. We have to understand that this is not necessarily the answer. It is worth discussing, it is worth sending to the table, at least worth sending to second reading but it isn't the plan and the numbers bear that out.

Representative Small of Bath was granted permission to address the House a third time.

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I kind of chuckle at the idea that we need a vote for both pockets -- if I was concerned about that, I would ditch the Minority Report and go with the Majority and not even be bothering with this. I sometimes ask myself why I am standing up and fighting for poorer communities when, in fact, my town does do better under the Majority Bill.

Nevertheless, I have taken that position. I do believe in equity and I will continue to fight for that.

As far as needing the amendment, I feel perfectly confident that it is not necessary. I have seen all kinds of tables passed around and graphs showing what would happen next year, implying our bill is a one-stop deal. I got a note from the former commissioner of the state and it says, "Your Minority Report on L.D. 2201 would continue the \$11 million additional funding for the present law requires that the state's share be at least 55 percent or a percentage no less than that funded in the previous year." I am offering the amendment to put at ease others that are concerned about this. I don't have a problem with it myself. I was offering that amendment in the spirit of compromise. As I said, this is a bill that I don't do as well under as the other one but I do feel that if you look at the state as a whole, the principle of equity, the principle of the rich get richer and the poor get poorer and the principle of disparity between the poorer units versus the richer units has to be addressed and I feel 2201 addresses it better.

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

Representative BOST: Mr. Speaker, Men and Women of the House: I am pleased to hear that our former Commissioner Boose is the one that is generating all of those figures and not the current commissioner.

I must admit that I was overwhelmed by the outpouring of sentiment for the Majority Report but there is a down side to that as well. The Education Committee, and Representative Small knows very well,

she has been working along side the rest of us on that committee, has worked long and hard on providing this legislature with what we think is the best of the two alternatives.

Regardless of claims about future amendments, which are not before us, which perhaps if the good gentlewoman had thought of it in committee could have been added in committee, regardless of those promises about what is coming down the road, the fact of the matter is, before you right now, is a bill which is a one-shot initiative, one year.

The figures that are supplied to you are not figures pulled out of thin air. They are figures that have been generated by the Office of Policy and Legal Analysis, they are accurate, you can count on them. The fact of the matter is, you have a choice here. You have a choice between raising the state's share of school funding costs to 58 percent creating a permanent floor by which schools can begin to determine their budgets or you can opt for a quick-fix solution.

I am also glad to hear that the Representative from Bath is now a champion of the poor versus the wealthy. What Representative Small didn't tell you was that, under the Majority Plan which was just passed without one dissenting vote, I believe it is the top 20 wealthiest communities in the state, don't receive anything. They don't receive a nickel in additional money because they are already at where most communities in this state would love to be right now. But, under the Minority Report, almost all of those communities get some money. So, if we are going to talk about wealthy versus poor districts, I think we have got to get our facts a little straight.

I offer this because I am very uncomfortable with what is happening here. I don't believe that the Minority Report contains many of the essential things that we have worked long and hard on the Education Committee to achieve, most notably the clarifying language on the manner in which the state and local share is determined and the fact that we have decided that a study, joint legislative executive branch study, needs to be done to address the issue of the school funding formula, which I think most agree, is far from perfect.

I offer these as differences between the two reports. I don't want to dampen anyone's bipartisan spirit here but I think you ought to know what you are voting on before you push the button.

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

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: In committee, this amendment was also known as the Norton Amendment. It was distinguished from another one quite easily. I like the distribution -- having worked in the department many years, I don't like any reverse Robin Hood theories. I like to support the notion that you take the money where it is and support the children where they are. I believe sincerely that this bill does that and has the best distribution that I have ever seen. In all the years that I worked, I did not mean the \$11 million to be a one-shot fix. I would gladly add it to the base.

What we need to understand about this formula is that, when we want to really do something to maintain equity, add money to the base. I did not have it within my power to suggest (at least I didn't think I did at that time) to add that to the base. The percentage is the illusion. Adding money to support the base of education is where you really need to get. If you keep wondering about permanent focus on a percentage of the cost, you will truly be year to year. If we could ever transfer this amount of money

to the base that supports education and the state's portion of it, then I think we will get where we want and I think the percentage will take care of itself.

I couldn't help but notice, under my suggestion, that it did move the percentage over 58 percent. I didn't contrive it, I didn't plan it, I merely thought that these vehicles are one of the last places I know of to make a substantial commitment of this legislature to local property tax relief. I offered that in the spirit of putting more money back to the towns and I like the distribution formula and I didn't have any kind of an agenda that was very political or any other thing in making that suggestion. I was trying to help.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: Actually, I don't think anybody on the Majority Report really needed to speak today because I think our chair has done a good job but, as so often happens up here, I have a couple of things I would like to add.

Two things that are often said to us by the people back home that we like to talk about is what they wish we wouldn't do, number one, please reduce the number of mandated programs which are either underfunded or not funded at all. The second is, please stop giving and then taking away.

In my judgment, the Minority Bill does this. Even though it may look good in some districts the first year, when that year is over, it is over. Unless another legislature takes similar action in another year, those towns go back to the figures that they started with.

There have been a couple of references to votes for both sides and both pockets. I assume that is reference to looking good to no matter who you are talking to back home. Well, with this being an election year issue, well, maybe it will be, but I can tell you this and I don't know about any other districts but I hope that my opponent back in Westbrook will be misled into thinking this would be a good issue to go after me on. I would welcome the opportunity to discuss the issue with him any time, any place.

The people of Westbrook -- and this goes for all of Westbrook's districts, are looking for meaningful, long-term attention to the cost of education. This bill, including its two year update and the proposed study, is a reasonable beginning. The Minority Bill doesn't begin, but it does end in one year. I urge you to vote against the pending motion.

Representative Small of Bath was granted permission to address the House a fourth time.

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: My apologies to the House for not having a better grasp of the long-term effect of this. I have always believed that ours would be perpetual but as I said, I saw what was circulated and immediately thought that perhaps we needed an amendment to explain that. But, in Section 2, 20 AMRSA 15602, subsection 3, it says, "Percentage effective 1988-89-90, the percentage of the state's share of the operating cost allocation on a statewide basis shall be no less than the percentage of the state's share of operating costs in '88-89." What that essentially means is the state cannot spend less in the next year as it spent the year before. Even though we don't, in effect, put it into statute that we are going to 58 percent, by putting that \$11 million in, that does increase the percentage. It doesn't do it statutorily but it does it in effect. What this says is that the state cannot spend less than that in the next year. This provision in the

bill already existing guarantees that that \$11 million will be spent again next year and in subsequent years, can never fall below that figure.

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

Representative DORE: Mr. Speaker, I would like to pose a question. I would like to pose a question to Representative Small of Bath. Why didn't you do it statutorily? I guess that is the question.

The SPEAKER: Representative Dore of Auburn has posed a question through the Chair to Representative Small of Bath who may respond if she so desires.

The Chair recognizes that Representative.

Representative SMALL: Mr. Speaker, Men and Women of the House: I guess there was a number of reasons, a number of concerns. One, we are already talking about a school funding task force that is going to be looking at the funding formula and yet, here we are locking ourselves into 58 percent, when next year, we may come back and say no, this does not distribute the money equitably and we are going to have to do another approach. We are already locked into 58 percent and, as you know, once you give a district money, it is very hard to take that money back and say we have to reallocate it.

I think if you look at the 58 percent when you go to it in statute and you see how it is distributed, which was the whole point of all these printouts, you find that by doing it through the formula in 58 percent it gives more to the higher valuation towns and less to the lower valuation towns. I guess that is the principle of equity that we all try to grasp and speak about.

I guess your idea of equity depends on how your town does. The 58 percent in this proposal, I think, does not distribute the money as equitably as it could be done under 2201.

Interestingly enough, as I said, when we came out and did the run-offs of what would happen under 60 percent, a lot of people that had always been opposed to 60 percent because they felt the high receivers were going to get all the money, discovered that it was the low receivers that did unbelievably well. We had a lot of towns that were getting \$300,000 and \$400,000, towns that we had always considered to be quite wealthy and other towns in the northern areas that were getting very small increases from going to 60 percent. I think basically the fact that by going to 58 percent is not a panacea because it does not distribute the money as equitable as I feel it can be done under 2201.

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

Representative BOST: Mr. Speaker, Ladies and Gentlemen of the House: I wanted to bring one other thing to your attention. One piece of testimony that I did not share with you in my original testimony that was given at the original hearing at the Augusta Civic Center on L.D. 355 sponsored by Representative Cashman was the following testimony from Sawin Millet, Director of Legislative Operations for the Governor. He was the sole individual at that hearing of over (I would estimate) 500 people to speak in opposition to the legislation. I would like to quote from that testimony. "I want to make it clear at the outset that our opposition to this legislation is based on our desire to first address within the limits of available resources the funding problems that local school officials and taxpayers will be facing as a result of state education mandates enacted over the past three years. Within the next few days, Governor McKernan will be announcing the formation of a study of state/local tax policy and an analysis of problems associated with our present

school funding law. He will also be announcing soon a plan for assisting local taxpayers in paying for these mandates in the upcoming fiscal year. Since we believe it is essential that we address current fiscal problems and perceived inequities in the present funding law prior to making substantial future fiscal commitments contained within this bill, we are recommending that you delay action on this legislation until we can accomplish those first step initiatives. In light of our recent experiences in attempting to pay for, at the state and local levels the education mandates of 1984, it would seem to be prudent and wise to take a more long-range look at the state and local partnership in paying for education."

I maintain that the evidence is in, the tax mix study has been completed, the school funding formula study has been completed, the evidence is in, those "first-step initiatives" that were the stumbling block for the second floor to endorse this bill in its original form, have now been taken care of. We could see that by the unanimous vote on that last bill. The fact that the bill that you have before you is anything but what the second floor had requested and that being a "more long-range look at the state and local partnership" I believe is evidence enough to vote against this bill.

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

Representative LAWRENCE: Mr. Speaker, Men and Women of the House: I would like to correct an impression that was made earlier. I was a member of the task force in studying school finance and I attended all of the meetings and I don't recall that the people there were there with closed minds. I believe that it got ample discussion. I believe it got ample weight on all contributions and I believe that the legislation that is before you in this form in 2201 concurs and embraces the kind of recommendations that came out of that task force.

I am one who voted for the previous bill because I believed it included just about all of the provisions that were included as the recommendations that came to that task force. I would like to repeat to you why I favor 2201 and I believe it puts us in a better position to help the school districts in their financial problems. I repeat for you that it increased the funding to ease the local tax burden, that its inclusion of minimum foundation support, that it is shortening the time lag of updating the yearly cost. And the allocation of operating costs at no less than in 1988-89 and that the subsidy stability by minimum allocation of 75 percent of the units allocations for operating costs during the first year and every year after until the minimum state allocation for foundation costs is reached. It is an improvement on property tax circuit breakers and it increases the funding base as against the percentage allocations. It folds the block grants into the formula. It is an equitable distribution of funds in accordance with the varying financial needs of the different school administrative districts and it is an assistance to the school administrative units to continue the education reform unit including teachers salaries. It maintains decision making at the local level. I urge you to support 2201.

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

ROLL CALL NO. 254

YEA - Allen, Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Bragg, Brown, Callahan, Carter, Chonko, Cote, Davis, Dellert, Dexter, Dutremble, L.; Erwin, P.; Farnum, Farren, Foss, Foster, Garland, Glidden, Gould, R. A.; Greenlaw, Hanley, Harper, Hepburn, Hichborn, Higgins, Hoglund, Holloway, Hussey, Jackson, Jalbert, Kimball, LaPointe, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Marsano, Mayo, McGowan, McPherson, McSweeney, Michaud, Mitchell, Murphy, E.; Murphy, T.; Norton, Nutting, Paradis, E.; Parent, Perry, Pines, Racine, Reed, Richard, Ridley, Rotondi, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Small, Stanley, Stevens, A.; Stevenson, M.; Strout, B.; Strout, D.; Tardy, Taylor, Telow, Tracy, Tupper, Vose, Walker, Warren, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton, The Speaker.

NAY - Aliberti, Anthony, Baker, Bost, Boutilier, Carroll, Cashman, Clark, H.; Clark, M.; Coles, Conley, Curran, Daggett, Diamond, Dore, Duffy, Gurney, Gwadovsky, Hale, Handy, Hickey, Holt, Jacques, Joseph, Ketover, Kilkelly, Lacroix, Macomber, Manning, Martin, H.; Matthews, K.; McHenry, Melendy, Moholland, Nadeau, G. G.; Nicholson, O'Gara, Oliver, Paradis, P.; Paul, Pouliot, Priest, Rand, Rolde, Ruhlin, Rydell, Simpson, Smith, Soucy, Stevens, P.; Swazey, Thistle.

ABSENT - Crowley, Hillock, Look, Mahany, Mills, Nadeau, G. R.; Paradis, J.; Reeves, Rice, Tammaro.
Yes, 89; No, 52; Absent, 10; Paired, 0; Excused, 0.

89 having voted in the affirmative and 52 in the negative with 10 being absent, the motion to accept the Minority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-706) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed and amended by Committee Amendment "A" and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

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

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative MANNING from the Committee on Human Resources on Bill "An Act to Revise the General Assistance Laws" (H.P. 1249) (L.D. 1705) reporting "Leave to Withdraw"

Representative MANNING from the Committee on Human Resources on Bill "An Act to Amend the General Assistance Laws" (H.P. 1250) (L.D. 1706) reporting "Leave to Withdraw"

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

CONSENT CALENDAR

First Day

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

(H.P. 1424) (L.D. 1935) Bill "An Act to Strengthen Penalties for Persons Piloting Boats Under the Influence of Alcohol" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-708)

On motion of Representative Gwadovsky of Fairfield, was removed from the Consent Calendar,

First Day.

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

Committee Amendment "A" (H-708) was read by the Clerk.

On motion of Representative Gwadovsky of Fairfield, tabled pending adoption of Committee Amendment "A" and specially assigned for Friday, April 15, 1988.

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

SENATE PAPERS

The following Communication:

Maine State Senate
Augusta, Maine 04333

April 14, 1988

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 appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Improve Services for Maine's Elderly" (S.P. 943) (L.D. 2490):

Senator BUSTIN of Kennebec
Senator BRANNIGAN of Cumberland
Senator BLACK of Cumberland

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

CONSENT CALENDAR

First Day

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

(S.P. 988) (L.D. 2616) Bill "An Act to Create the Maine Educational Loan Authority" (Emergency) Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-462)

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

The Chair laid before the House the following matter: An Act to Prohibit the Sale of Polystyrene Foam Products Containing or Made with Certain Chlorofluorocarbons (H.P. 1797) (L.D. 2461) (S. "B" S-422 to C. "A" H-596) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Michaud of East Millinocket, the House reconsidered its action whereby L.D. 2461 was passed to be engrossed.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-596) as amended by Senate Amendment "B" (S-422) was adopted.

On further motion of the same Representative, Committee Amendment "A" (H-596) as amended by Senate Amendment "B" (S-422) thereto was indefinitely postponed.

The same Representative offered House Amendment "A" (H-709) and moved its adoption.

House Amendment "A" (H-709) was read by the Clerk and adopted.

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

The Chair laid before the House the following matter: HOUSE REPORT - "Ought to Pass" as amended by Committee Amendment "A" (H-669) - Committee on Legal Affairs on Bill "An Act to Strengthen the Drunk Driving Laws" (H.P. 1746) (L.D. 2395) which was tabled earlier in the day and later today assigned pending adoption of Committee Amendment "A."

Representative Priest of Brunswick offered House Amendment "E" (H-713) to Committee Amendment "A" (H-669) and moved its adoption.

House Amendment "E" (H-713) to Committee Amendment "A" was read by the Clerk.

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

Representative PRIEST: Mr. Speaker, Men and Women of the House: This bill is in large part technical, responding to some questions which have been raised and this amendment has been gone over by both myself and Mr. John Atwood and the Attorney General. The bill accomplishes one thing beyond technical provisions and I think you should be aware of that one thing. It is the item we had discussed earlier today and that is the conditional license. It establishes that a conditional license on the first offense should be conditional for one year and establishes the blood level at .05 instead of .02. Any subsequent conditional license will be for a period of six years as in the original bill. It also provides that the Secretary of State may issue a work restricted license during the first year period of suspension. The purpose of this amendment, obviously, is to encourage first offense OUI drivers to change their habits and to respond to the impetus of this bill and stop drinking and driving. That is what we are trying to do by giving them a definite goal during which this can be accomplished and setting it at .05, so we removed the question (if there is that question) of the cough medicine or whatever other kind of problem there was, we will be encouraging people to change their habits and to reform and to stop drinking and driving.

Again note, that .05 is still a significant blood level, it is just the beginning of impairment. So, there is no substantive change here in the bill. There is that establishment of .05 instead of .02.

I would urge that you adopt the amendment. Again, I want to stress that Commissioner Atwood has reviewed this along with me and he has no problems with it.

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

Representative CURRAN: Mr. Speaker, Men and Women of the House: I know there has been a lot of controversy about this blood level .02 and there are a lot people who are truly puzzled about it. There have been times when I have been too. But, this is a friendly amendment and I guess we are stuck with it.

Nevertheless, I want my objections to be on the Record. I object to it, especially the number one in the Statement of Fact that would increase the blood alcohol level limit for conditional license holders from .02 to .05.

This amendment takes teeth out of what many of us want to be a very tough law. What has been touted to us and has been touted to the public as a very tough law, the teeth are taken out of it with this. Don't forget, this bill would give relief to persons who have already been convicted as a menace to the lives and limbs of others -- twice. To condone and make

permissible by law the continued misuse of liquor and abuse of other peoples' basic rights to life and health, I think it inexcusable.

We heard testimony by a medical doctor during discussion of this bill that the present .1 level should be reduced in his opinion to .05 for any offense. The compromise nevertheless became .08 and that is all right.

Now the deal is, it would allow the person of my body weight to drink four and a half ounces of liquor in two hours and then drive down the road after being proven twice a hazard to life and limb. I have a gauge in my pocket that was passed around a few days ago and on this gauge it says in red letters, red indicates the danger zone. Red starts at .05.

I request a roll call Mr. Speaker.

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 adoption of House Amendment "E" (H-713) to Committee Amendment "A" (H-669). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 255

YEA - Aliberti, Allen, Anthony, Begley, Bost, Brown, Callahan, Carroll, Carter, Cashman, Clark, H.; Clark, M.; Conley, Cote, Diamond, Dore, Duffy, Erwin, P.; Gould, R. A.; Gwadosky, Hale, Handy, Hichborn, Hickey, Hوجلund, Holt, Hussey, Jackson, Jacques, Jalbert, Joseph, Ketover, Kimball, Lacroix, LaPointe, Lisnik, Manning, Martin, H.; Mayo, McGowan, McHenry, McSweeney, Michaud, Mitchell, Moholland, Nadeau, G. G.; Norton, O'Gara, Oliver, Parent, Pouliot, Priest, Racine, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Salsbury, Sheltra, Simpson, Smith, Stevenson, M.; Swazey, Tardy, Taylor, Telow, Tracy, Vose, Walker, Warren, Willey, Zirkilton, The Speaker.

NAY - Anderson, Armstrong, Bailey, Bickford, Bott, Boutilier, Bragg, Curran, Daggett, Davis, Dellert, Dexter, Dutremble, L.; Farnum, Farren, Foss, Foster, Garland, Glidden, Greenlaw, Gurney, Hanley, Harper, Hepburn, Higgins, Holloway, Kilkelly, Lawrence, Lebowitz, Lord, MacBride, Macomber, Matthews, K.; McPherson, Melendy, Murphy, E.; Murphy, T.; Nicholson, Nutting, Paradis, E.; Paradis, P.; Perry, Pines, Reed, Scarpino, Seavey, Sherburne, Small, Soucy, Stanley, Stevens, A.; Stevens, P.; Strout, B.; Strout, D.; Thistle, Tupper, Webster, M.; Wentworth, Weymouth, Whitcomb.

ABSENT - Baker, Chonko, Coles, Crowley, Hillock, Look, Mahany, Marsano, Mills, Nadeau, G. R.; Paradis, J.; Paul, Reeves, Rice, Tammaro.

Yes, 76; No, 60; Absent, 15; Paired, 0; Excused, 0.

76 having voted in the affirmative and 60 in the negative with 15 being absent, the motion to adopt House Amendment "E" to Committee Amendment "A" did prevail.

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

Under suspension of the rules, the Bill was read the second time and passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "E" thereto and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

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

SENATE PAPER

Non-Concurrent Matter

An Act to Amend the Requirement that Counties Contribute to the Support of the Superior Courts and the Supreme Judicial Court (H.P. 1677) (L.D. 2306) (C. "A" H-647) which was passed to be enacted in the House on April 14, 1988.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-647) as amended by Committee Amendment "A" (S-459) thereto in non-concurrence.

The House voted to recede and concur.

(At Ease)

The House was called to order by the Speaker.

(Off Record Remarks)

The following item appearing on Supplement No. 15 was taken up out of order by unanimous consent:

SENATE PAPER

Non-Concurrent Matter

Bill "An Act Concerning the Statutory Organization of Boards and Commissions" (H.P. 1710) (L.D. 2347) which was passed to be engrossed as amended by Committee Amendment "A" (H-677) in the House on April 13, 1988.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-677) as amended by Senate Amendment "A" (S-458) thereto in non-concurrence.

The House voted to recede and concur.

On motion of Representative McSweeney of Old Orchard Beach,

Adjourned until Friday, April 15, 1988, at nine o'clock in the morning.
