

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

**One Hundred And Fifteenth Legislature**

OF THE

**State Of Maine**

**VOLUME II**

**FIRST REGULAR SESSION**

House of Representatives  
May 20, 1991 to July 10, 1991

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE  
FIRST REGULAR SESSION  
54th Legislative Day  
Tuesday, May 28, 1991

The House met according to adjournment and was called to order by the Speaker.  
Prayer by Sister Frances Carr, United Society of Shakers, Poland Spring.  
Pledge of Allegiance.  
The Journal of Thursday, May 23, 1991, was read and approved.

**SENATE PAPERS**

The following Communication:

Maine State Senate  
Augusta, Maine 04333

May 23, 1991

The Honorable John L. Martin  
Speaker of the House  
115th 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:

Lynn K. Goldfarb of Portland for appointment to the State Board of Education. Lynn K. Goldfarb is replacing Carol Wishcamper.

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

May 23, 1991

The Honorable John L. Martin  
Speaker of the House  
115th 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 Marine Resources:

Herman Backman, III of Beals for appointment to the Marine Resources Advisory Council. Herman

Backman, III is replacing Donald Wotton.

Brad Burns of Falmouth for appointment to the Marine Resources Advisory Council. Brad Burns is replacing Louis Zglobicki.

Steve Taylor of Kittery for appointment to the Marine Resources Advisory Council. Steve Taylor is replacing Myron Sprague.

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

May 23, 1991

The Honorable John L. Martin  
Speaker of the House  
115th Legislature  
Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Judiciary:

Stephen Adams of Bangor for appointment to the Maine Indian Tribal-State Commission. Stephen Adams is replacing Linda Smith.

John H. Cox of Bangor for appointment to the Maine Indian Tribal-State Commission. John H. Cox is replacing Clare Payne.

Frederick B. Hurley, Jr. of Wayne for reappointment to the Maine Indian Tribal-State Commission.

Maynard F. Marsh of Gorham for reappointment to the Maine Indian Tribal-State Commission.

Sincerely,

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

Was read and ordered placed on file.

Bill "An Act Concerning the Acquisition of Railroad Lines by the State" (EMERGENCY) (S.P. 714) (L.D. 1903)

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

(The Committee on Reference of Bills had suggested reference to the Committee on Transportation.)

Under suspension of the rules and without reference to a Committee, the bill was read once and assigned for second reading Thursday, May 30, 1991.

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**Unanimous Ought Not To Pass**

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Regulate Cash Flow Balances in State Government Accounts" (S.P. 648) (L.D. 1693)

Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Standardize the Excise Tax on Large Trucks" (S.P. 555) (L.D. 1459)

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

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**Ought to Pass as Amended**

Report of the Committee on Legal Affairs reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-192) on Bill "An Act to Continue Authority for Seasonal Agency Liquor Stores" (EMERGENCY) (S.P. 566) (L.D. 1486)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-192).

Report was read and accepted, the bill read once. Committee Amendment "A" (S-192) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 30, 1991.

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**Ought to Pass as Amended**

Report of the Committee on Business Legislation reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-176) on Bill "An Act to Amend Various Provisions of the Electricians' Examining Board Laws" (S.P. 503) (L.D. 1341)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-176).

Report was read and accepted, the bill read once. Committee Amendment "A" (S-176) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 30, 1991.

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**Divided Report**

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought Not to Pass" on Bill

"An Act to Protect Riders of Snowmobiles" (S.P. 488) (L.D. 1326)

Signed:

Senators: TWITCHELL of Oxford  
SUMMERS of Cumberland

Representatives: TRACY of Rome  
CLARK of Millinocket  
PAUL of Sanford  
GREENLAW of Standish  
SWAZEY of Bucksport  
JACQUES of Waterville  
ROTONDI of Athens  
FARREN of Cherryfield  
DUFFY of Bangor  
CARROLL of Southwest Harbor

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-206) on same Bill.

Signed:

Senator: MATTHEWS of Kennebec

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

Reports were read.

On motion of Representative Clark of Millinocket, the House accepted the Majority "Ought Not to Pass" Report in concurrence.

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**Non-Concurrent Matter**

Bill "An Act to Prevent Striking Workers from Being Permanently Replaced by Strikebreakers" (H.P. 615) (L.D. 875) on which the Majority "Ought to Pass" as amended Report of the Committee on Labor was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-324) in the House on May 22, 1991.

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

Representative Pineau of Jay moved that the House recede and concur.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry. Representative MCHENRY: Mr. Speaker, I move that the House insist.

The SPEAKER: The Chair would advise the Representative that the motion to insist is out of order.

The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you do not recede and concur because if you do, you are killing this bill.

I, therefore, ask for a division and hope that you vote against the motion to recede and concur.

The SPEAKER: The Chair will order a vote. The

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

A vote of the House was taken.

Representative McHenry of Madawaska requested a roll call vote.

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

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

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I want to make clear that if you are voting yes on this, you are killing this bill, the strikebreaker bill. I really hope that you are going to vote no, vote red.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Luther.

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: This bill is extremely important to the people of Jay and the people of Mexico and to the people of Rumford. Let me tell you something, the good Representative from Jay, I promise you a primary next time, you can bet on it, you are going to have a primary next time. You are not unbeatable in Jay....

The SPEAKER: The Chair would ask the Representative from Mexico, Representative Luther, to please refrain herself to the issue at hand and not to the personality of any member of this body.

Representative LUTHER: The issue at hand is the strikebreaker bill and everybody in here ought to know what it means to hourly paid people.

Mr. Speaker, I really would like to see your vote up on the wall on this one.

The SPEAKER: The Chair would ask the Representative from Mexico, Representative Luther, to please control her interest in this particular piece of legislation.

The Chair recognizes the Representative from Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: The part of this bill — I think you all know where I stand on strikebreaker legislation — the part of this bill that I am uncomfortable with is the part on the non-binding referendum. For the last three months, we have been fighting on state costs and to put out a non-binding referendum I feel is an expense to the state which isn't warranted.

The Resolution we passed memorializing Congress on the federal legislation going through is probably the most important thing we have done in this body because that is where this bill has to go to face the preemption change. That is why I have moved to recede and concur.

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

ROLL CALL NO. 86

YEA - Aikman, Anderson, Bailey, H.; Bailey, R.; Bennett, Bowers, Butland, Carleton, Carroll, J.; Constantine, Donnelly, Farnum, Farren, Foss, Garland, Greenlaw, Hastings, Heino, Hepburn, Hichens, Kerr, Kutasi, Libby, Look, Lord, MacBride, Marsano, Merrill, Murphy, Nadeau, Nash, Nutting, Parent, Pendexter, Pineau, Pines, Plourde, Poulin, Pouliot, Reed, W.; Saint Onge, Savage, Spear, Stevens, A.; Stevenson, Strout, Tammaro, Tupper, Vigue, Waterman, Whitcomb.

NAY - Adams, Aliberti, Anthony, Bell, Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Cote, Crowley, Dutremble, L.; Erwin, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gwadosky, Hale, Handy, Heesch, Hichborn, Hognlund, Holt, Hussey, Jalbert, Joseph, Ketover, Kontos, LaPointe, Larrivee, Lawrence, Lemke, Luther, Macomber, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Norton, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Rand, Ricker, Rotondi, Rydell, Salisbury, Sheltra, Simpson, Skoglund, Stevens, P.; Swazey, Townsend, Tracy, Treat, Wentworth, The Speaker.

ABSENT - Ault, Barth, Boutilier, Cahill, M.; Coles, Daggett, DiPietro, Dore, Duffy, Duplessis, Farnsworth, Gurney, Hanley, Jacques, Ketterer, Kil Kelly, Lebowitz, Lipman, Mahany, Marsh, O'Dea, Ott, Pendleton, Powers, Reed, G.; Richards, Richardson, Ruhlin, Simonds, Small, Tardy.

Yes, 51; No, 69; Absent, 31; Paired, 0; Excused, 0.

51 having voted in the affirmative and 69 in the negative with 31 being absent, the motion to recede and concur did not prevail.

Subsequently, the House voted to Insist.

#### Non-Concurrent Matter

Bill "An Act to Implement the Recommendations of the Maine Commission on Legal Needs" (H.P. 837) (L.D. 1203) which was passed to be engrossed as amended by Committee Amendment "A" (H-287) in the House on May 16, 1991.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-287) as amended by Senate Amendment "A" (S-217) thereto in non-concurrence.

The House voted to recede and concur.

#### Non-Concurrent Matter

Bill "An Act Concerning the Franklin County Budget" (H.P. 15) (L.D. 18) which was passed to be engrossed as amended by Committee Amendment "A" (H-225) in the House on May 7, 1991.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-225) as amended by Senate Amendment "A" (S-212) thereto in non-concurrence.

The House voted to recede and concur.

**PETITIONS, BILLS AND RESOLVES  
REQUIRING REFERENCE**

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

**Taxation**

Bill "An Act to Create the Maine Economic Recovery Trust" (EMERGENCY) (H.P. 1320) (L.D. 1906) (Presented by Representative DUTREMBLE of Biddeford) (Cosponsored by Senator DUTREMBLE of York)

(The Committee on Reference of Bills had suggested reference to the Committee on Housing and Economic Development.)

On motion of Representative Cashman of Old Town, was referred to the Committee on Taxation, ordered printed and sent up for concurrence.

**ORDERS**

On motion of Representative HICHBORN of Howland, the following Order:

ORDERED, that Representative John H. Carroll of Southwest Harbor be excused May 16 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative James O. Donnelly of Presque Isle be excused May 22 and 23 for personal reasons.

Was read and passed.

**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-406) on Resolve, to Develop a Statewide Health Insurance Program (EMERGENCY) (H.P. 1184) (L.D. 1727)

Signed:

Senators: KANY of Kennebec  
THERIAULT of Aroostook

Representatives: MITCHELL of Vassalboro  
TRACY of Rome  
JOSEPH of Waterville  
CARLETON of Wells  
ERWIN of Rumford  
KETOVER of Portland  
HASTINGS of Fryeburg  
PINEAU of Jay  
RAND of Portland

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

Signed:

Senator: BRAUN of Knox

Representative: GARLAND of Bangor

Reports were read.

Representative Mitchell of Vassalboro moved that the House accept the Majority "Ought to Pass" Report.

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

Representative GARLAND: Mr. Speaker, Men and Women of the House: It is very difficult to oppose this legislation as it is only a study and all my arguments can be dismissed by arguing that the study committee will examine each concern. Also, the majority of the cost of this study is being picked up by the Robert Wood Johnson Foundation. But, the study is being set up with a predetermined conclusion that a statewide taxpayer finance health insurance program be established. I believe this to be a faulty premise and does not deal with the underlying problems of a health care system and it will also be prohibitively expensive.

The skyrocketing costs of our health care can be attributed to many factors, our appetite for medical technology, medicare/medicaid shortfalls, our failure to shop intelligently for health care, AIDS, our aging population and defensive medicine. This legislation does nothing to address these fundamental problems. Simply layering a Maine specific taxpayer financed universal health plan on top of these factors does nothing to make them go away. The cost of this program will be prohibitively expensive. The proponents of this legislation say that 130,000 Maine people are uninsured and more are underinsured. A conservative estimate of the cost of this program would be a minimum of \$182 million. I do not believe that legislation will address these fundamental problems of the health care crisis. I do not believe that we as a state can afford this type of program proposed in this study. So, I hope you will vote against this legislation.

Mr. Speaker, I request a Division.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I will respectfully disagree with my colleague from the Banking and Insurance Committee. There is no preconceived notion to the outcome of this study except that Maine people do not have access to health care that they can afford.

The committee decided that the most useful group to study this group is the Banking and Insurance Committee, who has been exposed continuously to various proposals concerning the delivery of health care. The Committee would consist of our own committee, plus three members appointed by the Speaker and the President to report back in January.

There are many, many ways of delivering health care. Many people assume that the Canadian plan is the only plan. Obviously, it is not. The German plan probably would fit more to our liking with private choice and private doctors delivering health care.

I don't know the outcome but I do know that we can't afford to wait to look at it. Those of you who

have studied the Canadian program would be interested in knowing that it started with one province. My view is that the State of Maine has some excellent talent. It has a big problem and all this does is ask for us to study and report back to this legislature what we can do to make sure that our constituents have access to health care that they can afford. I would ask you to vote for the Majority Report.

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

A vote of the House was taken.

89 having voted in the affirmative and 19 in the negative, the Majority "Ought to Pass" Report was accepted, the Resolve read once.

Committee Amendment "A" (H-406) was read by the Clerk and adopted and the Resolve assigned for second reading, Thursday, May 30, 1991.

**Divided Report**

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-407) on Bill "An Act to Promote the Emotional Health of Children During Periods of Stress" (H.P. 210) (L.D. 301)

Signed:

Senators: HOLLOWAY of Lincoln  
GAUVREAU of Androscoggin

Representatives: FARNSWORTH of Hallowell  
PARADIS of Augusta  
COTE of Auburn  
OTT of York  
HANLEY of Paris  
ANTHONY of South Portland  
CATHCART of Orono  
KETTERER of Madison  
RICHARDS of Hampden

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

Signed:

Senator: BERUBE of Androscoggin

Representative: STEVENS of Bangor

Reports were read.

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

On further motion of the same Representative, tabled pending his motion that the House accept the Majority "Ought to Pass" Report and specially assigned for Thursday, May 30, 1991.

**CONSENT CALENDAR**

**First Day**

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

(S.P. 429) (L.D. 1150) Resolve, to Clear Title to Property in the Town of Oxford (EMERGENCY) Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-188)

(S.P. 436) (L.D. 1157) Bill "An Act to Amend the Teacher Retirement Laws" (EMERGENCY) Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (S-195)

(S.P. 460) (L.D. 1236) Bill "An Act Concerning Continuances Requested by Petitioners in Hearings for Operating under the Influence" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-194)

(S.P. 493) (L.D. 1331) Bill "An Act Regarding Sprinkler Systems in New Buildings" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-193)

(S.P. 524) (L.D. 1402) Bill "An Act to Provide Confidentiality of Proprietary Data Provided to State Agencies" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-189)

(S.P. 562) (L.D. 1466) Bill "An Act to Amend Certain Laws Administered by the Maine State Retirement System" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (S-196)

(S.P. 679) (L.D. 1801) Bill "An Act to Clarify the Termination of Intensive Supervision" Joint Select Committee on Corrections reporting "Ought to Pass" as amended by Committee Amendment "A" (S-190)

(H.P. 816) (L.D. 1170) Bill "An Act to Make Emergency Changes to the Motor Vehicle Laws" (EMERGENCY) Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-423)

(H.P. 1087) (L.D. 1587) Bill "An Act to Require Minimum Training Standards for Construction Flaggers" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-424)

(H.P. 956) (L.D. 1383) Bill "An Act to Clarify the Authority of the Department of Transportation to Acquire Property for Environmental Mitigation Purposes" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-425)

(H.P. 874) (L.D. 1260) Resolve, to Establish the Commission to Study the Safe Operation of Truck Tractors Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-426)

(H.P. 473) (L.D. 667) Bill "An Act to Require the Department of Environmental Protection to Seek Authority to Administer the Provisions of the Federal

Water Pollution Control Act" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-432)

(H.P. 646) (L.D. 920) Bill "An Act to Amend the Laws Relating to Submerged Land" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-433)

(H.P. 709) (L.D. 1014) Bill "An Act to Amend the Shoreland Zoning Laws" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-434)

(S.P. 500) (L.D. 1338) Bill "An Act Concerning Teacher Employment" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-147)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 30, 1991, under the listing of Second Day.

**CONSENT CALENDAR**

**Second Day**

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

(H.P. 967) (L.D. 1394) Bill "An Act to Improve Markets for Recycled Materials" (C. "A" H-391)

(H.P. 1208) (L.D. 1764) Bill "An Act to Promote Affordable Housing for Persons of Low to Moderate Income" (EMERGENCY) (C. "A" H-392)

(S.P. 40) (L.D. 64) Bill "An Act to Provide Funds for Women with Substance Abuse Problems" (C. "A" S-182)

(S.P. 288) (L.D. 770) Resolve, to Create the Commission to Study a Long-term Disability Program for the Maine State Retirement System Members (EMERGENCY) (C. "A" S-171)

(S.P. 319) (L.D. 857) Bill "An Act to Ensure Adequate Resources for Energy Assistance Programs for Low-income Households" (EMERGENCY) (C. "A" S-174)

(S.P. 437) (L.D. 1181) Bill "An Act Regarding Taking Scallops in the Swan's Island Cable Area" (C. "A" S-183)

(S.P. 459) (L.D. 1235) Bill "An Act to Amend the Motor Vehicle Dealer Manufacturer Laws" (C. "A" S-175)

(S.P. 494) (L.D. 1332) Bill "An Act to Enhance Social Services and Therapeutic Patient Activities in Nursing Homes" (C. "A" S-181)

(S.P. 495) (L.D. 1333) Bill "An Act to Include Radiology in the Medical Liability Demonstration Project" (EMERGENCY) (C. "A" S-177)

(S.P. 569) (L.D. 1489) Bill "An Act to Make

Miscellaneous Changes to the Maine Revised Statutes, Title 34-A" (C. "A" S-169)

(S.P. 659) (L.D. 1735) Resolve, Authorizing the Conveyance of a Utility Easement to the City of Belfast (C. "A" S-173)

(S.P. 663) (L.D. 1739) Bill "An Act to Establish a Grading System for Maple Syrup Produced in the State" (C. "A" S-185)

(S.P. 586) (L.D. 1539) Resolve, Concerning Reauthorization of the \$12,000,000 Bond Issue for Sewer Treatment Facilities (EMERGENCY)

(S.P. 595) (L.D. 1580) Bill "An Act to Amend the Definition of 'Regional Association' under the Laws Relating to Waste Management"

(H.P. 966) (L.D. 1393) Bill "An Act Increasing the Membership of the Nursing Home Administrators Licensing Board and Clarifying the Penalty for Unlicensed Practice" (C. "A" H-395)

(H.P. 825) (L.D. 1179) Bill "An Act to Amend the Laws Regarding Complaints against Physicians and to Require a Study Concerning Patient Information" (EMERGENCY) (C. "A" H-394)

(H.P. 927) (L.D. 1324) Bill "An Act to Amend the Laws Regulating Aestheticians" (C. "A" H-393)

(H.P. 1131) (L.D. 1656) Bill "An Act to Amend the Election Laws Governing Voting Machines and Electronic Voting Systems" (C. "A" H-397)

(H.P. 839) (L.D. 1205) Bill "An Act Concerning Landlord-tenant Contracts of Adhesion" (C. "A" H-396)

(H.P. 1078) (L.D. 1572) Bill "An Act to Amend the Laws Governing the Intensive Supervision Program" (C. "A" H-398)

(H.P. 1159) (L.D. 1700) Bill "An Act Concerning the Construction of the Maine Revised Statutes" (C. "A" H-399)

(H.P. 406) (L.D. 589) Bill "An Act to Establish a Crime and Penalty for Killing a Person While Hunting" (C. "A" H-400)

(H.P. 1177) (L.D. 1718) Bill "An Act to Provide for Administrative Correction of Certain Errors and Inconsistencies in the Maine Revised Statutes and to Establish the Commission to Study Resolution of Conflicting Enactments" (EMERGENCY) (C. "A" H-401)

(H.P. 1229) (L.D. 1793) Bill "An Act to Ensure Notification of Guardians Ad Litem of Changes in Foster Care Placement of Children" (C. "A" H-402)

(H.P. 1234) (L.D. 1798) Bill "An Act to Establish the Advisory Committee on Improving Outdoor Recreational Opportunities for Persons with Disabilities" (C. "A" H-404)

(H.P. 482) (L.D. 676) Bill "An Act to Allow Unemployment Compensation Benefits to be Payable to Individuals Who are Forced to Leave Employment to Protect Their Health and Safety" (C. "A" H-405)



(H.P. 1297) (L.D. 1877) Bill "An Act Regarding the Ministerial and Grammar School Fund of Turner"

(H.P. 1021) (L.D. 1494) Bill "An Act to Assist Maine Citizens with Health Insurance Costs" (C. "A" H-408)

(H.P. 1219) (L.D. 1777) Bill "An Act to Deregulate Mobile Telecommunications Services" (C. "A" H-411)

(H.P. 1306) (L.D. 1888) Bill "An Act to Ensure Continuity in Liability for Ground Water Contamination" (EMERGENCY)

(H.P. 987) (L.D. 1432) Bill "An Act to Establish and Implement the Maine Nonpoint Source Pollution Control Program" (C. "A" H-415)

(H.P. 693) (L.D. 992) Bill "An Act to Amend the Mandatory Zoning and Subdivision Control Laws" (C. "A" H-416)

(H.P. 1029) (L.D. 1502) Bill "An Act to Provide for the Acquisition of Property for the Establishment, Preservation or Enhancement of Open Space and Recreation Corridors in the State" (C. "A" H-417)

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

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**PASSED TO BE ENGROSSED**

**As Amended**

Bill "An Act to Relocate Maine Emergency Medical Services from the Department of Human Services to the Department of Public Safety Pursuant to the Maine Sunset Act" (S.P. 709) (L.D. 1890)

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

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**PASSED TO BE ENGROSSED**

**As Amended**

Bill "An Act to Promote Competition in Providing Telecommunications Services" (S.P. 492) (L.D. 1330) (C. "A" S-184)

Bill "An Act to Permit Earlier Repayment of Contributions to the Maine State Retirement System" (S.P. 359) (L.D. 961) (S. "A" S-209)

Bill "An Act Relating to Retirement Service Credits for Former Workers' Compensation Commissioners Who Became Judges before December 1, 1984" (S.P. 553) (L.D. 1457) (S. "A" S-208)

Resolve, to Create the Commission to Study the History, Status, Impact and Role of Independent Higher Education in Maine (S.P. 548) (L.D. 1452) (C. "A" S-180)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate Papers were Passed to be Engrossed as amended in concurrence.

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**PASSED TO BE ENGROSSED**

**As Amended**

Bill "An Act to Revise the Maine Horticultural Laws" (H.P. 923) (L.D. 1320) (C. "A" H-409)

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

Representative Mayo of Thomaston moved that the Bill be tabled pending passage to be engrossed and later today assigned.

Subsequently, Representative Mayo of Thomaston withdrew his motion to table.

Representative Tardy of Palmyra offered House Amendment "A" (H-414) and moved its adoption.

House Amendment "A" (H-414) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-409) and House Amendment "A" (H-414) and sent up for concurrence.

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Bill "An Act to Provide Full Pupil Subsidies for Home School Students" (H.P. 579) (L.D. 830) (C. "A" H-356)

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

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Bill "An Act Concerning the Sales and Use Tax on Aircraft Parts" (S.P. 375) (L.D. 1009) (S. "A" S-160)

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

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: I move indefinite postponement of this bill and all its accompanying papers.

We went through this discussion a couple of days ago. The arguments haven't changed. There is no fiscal note on this bill at the present time. However, there could be one whopper of a fiscal note next year or the year after that. Quite simply, what you have here is a phantom fiscal note. Some will argue that there is no fiscal note because there is no business right now so, therefore, we are not losing any money. If you want to pursue that argument, technically that is correct. However,

assuming that there is business, we are granting an exemption, we are setting a precedent that I don't think this House wants to go into. If we subsidize this particular industry, there is absolutely no reason why the truckers or the leased automobile people or anybody else for that matter can come in, make the same claim and they would probably have a pretty good argument.

In this year of 1991, when there is not a heck of a lot of money kicking around and we have told a few social service agencies that maybe when times are better we will consider your arguments, but none of those folks have gotten any money. Now we are going to offer an exemption or a sweet potato type thing to one particular industry with no guarantee that they are going to come into the State of Maine and produce jobs and produce money to the economy and things of that nature. Therefore, I humbly request that you give this bill serious consideration.

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

Representative CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: This is, of course, the same debate we had last Thursday. In fact, it is the same motion of indefinite postponement. This bill seems to be taking on a life of its own, a larger than life when, in fact, it isn't.

As Representative Nadeau will remember, I am sure, when aircraft parts for maintenance was exempted in Maine tax law throughout the 1980's, it never carried a big fiscal note. So, his assertion that there will be a whopping fiscal note, I think, relates to an older exemption on leased aircraft which is not being debated here.

This bill simply exempts aircraft parts used in maintenance for large commercial aircraft carriers.

Listening to the debate Thursday, it seemed to me that some people had the opinion that in voting against this, you are standing up to big business, you are standing up to a big business exemption. Nobody has lobbied the Taxation Committee, United Airlines or Delta Airlines or any big airlines that fly into this state. I am sure none of you have been lobbied in the hall by big airlines in this state because they really don't care. They don't care if this bill passes. See, they don't get their maintenance done here now, they are not going to get it done here in the future if they have to pay a sales tax on the parts that they are putting into their planes, so they don't care.

The people that brought this bill in were the City of Bangor and the City of Portland, not exactly sinister Maine people. They brought the bill in because they have got hanger space at the Bangor Airport that is empty. It used to be used for maintenance. The City of Bangor runs the airport, they rent the hangers and the hanger rental fees pay for the airport. If the airport loses money, Bangor property taxpayers pick up the tab. I am not as familiar with Portland but I assume it works the same way, it is a municipal airport. All they want to do is lease out their hanger space and they can't lease it now because nobody does any maintenance up here.

I called the Bangor Airport operator Friday and I asked him what happens now if Delta Airlines has an airplane at the Bangor Airport that can't fly, what do they do? You know what they do, they fly in mechanics and aircraft parts. They fly them in, fix the plane and fly it out. They take delivery on the aircraft parts in either Massachusetts or New Jersey

and they bring them up here and install them and fly the plane out so that they don't pay the sales tax. That is why they don't care about this bill.

The only people being hurt by the current situation are the two major airports in this state. I don't represent the City of Bangor, so it really shouldn't matter to me. I do pay property taxes there but I don't represent the city. I know that the people in Old Town use the Bangor International Airport and we don't contribute to the expenses there. I talked to Marshall Frankel over the weekend, a city councilor in Bangor and I know that, if the Bangor Airport loses money which it has many times, the City of Bangor has to kick in to keep it afloat and that comes out of the property tax.

I hope you will vote (again) against indefinite postponement of this bill so that we can get it through the second reader and send it down to the other body.

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

Representative FARNUM: Mr. Speaker, Ladies and Gentlemen of the House: Two things, one, let's talk about trucks for just a second. Two, the biggest truck repair places are over in Portsmouth, New Hampshire, they get the business from Massachusetts and from Maine. So, we are not losing money there.

Secondly, we are pitting Bangor and Portland against Pease Air Force Base for a repair station — which do you want, New Hampshire to get the business or Maine to get the business? It is as simple as that.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Nadeau of Saco that L.D. 1009 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

39 having voted in the affirmative and 84 in the negative, the motion to indefinitely postpone did not prevail.

Subsequently, the Bill was passed to be engrossed as amended by Senate Amendment "A" (S-160) in concurrence.

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**ENACTOR**

**Emergency Measure**

**Later Today Assigned**

An Act to Modify the Ban on Plastic Rings and Other Plastic Holding Devices (H.P. 591) (L.D. 842) (C. "A" H-205)

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

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

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**ENACTOR**

**Later Today Assigned**

An Act to Allow the Use of Either Paper or Plastic Bags at Point of Retail Sale (H.P. 812) (L.D. 1166) (C. "A" H-204)

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

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

**ENACTOR**

**(Reconsidered)**

An Act to Establish a Statewide Area Health Education Centers System (H.P. 112) (L.D. 155) (H. "A" H-311 to C. "A" H-253)

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

On motion of Representative Manning of Portland, under suspension of the rules, the House reconsidered its action whereby L.D. 155 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-253) was adopted.

The same Representative offered House Amendment "B" (H-420) to Committee Amendment "A" (H-253) and moved its adoption.

House Amendment "B" (H-420) to Committee Amendment "A" (H-253) was read by the Clerk and adopted.

Committee Amendment "A" (H-253) as amended by House Amendment "A" (H-311) and "B" (H-420) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-253) as amended by House Amendment "A" (H-311) and "B" (H-420) thereto in non-concurrence and sent up for concurrence.

**ENACTOR**

**Later Today Assigned**

An Act to Revise the Law Protecting Farmers' Rights to Farm (H.P. 920) (L.D. 1317) (C. "A" H-270)

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

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

**ENACTOR**

**Later Today Assigned**

An Act to Allow the Department of Transportation

to Facilitate Traffic and Highway Improvements (H.P. 688) (L.D. 987) (C. "A" H-280)

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

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

**ORDERS OF THE DAY**

**UNFINISHED BUSINESS**

The following matter, in the consideration of which the House was engaged at the time of adjournment Thursday, May 23, 1991 has preference in the Orders of the Day and continues with such preference until disposed of as provided by Rule 24.

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

HOUSE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (5) "Ought to Pass" as amended by Committee Amendment "A" (H-277) - Committee on Legal Affairs on Bill "An Act to Impose a Limit on Campaign Contributions" (H.P. 785) (L.D. 1117) TABLED - May 23, 1991 (Till Later Today) by Representative GWADOSKY of Fairfield. PENDING - Motion of Representative LAWRENCE of Kittery to accept the Majority "Ought Not to Pass" Report. (Roll Call Requested)

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Lawrence of Kittery that the House accept the Majority "Ought Not to Pass" Report and specially assigned for Thursday, May 30, 1991.

**TABLED AND TODAY ASSIGNED**

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

HOUSE DIVIDED REPORT - Majority (11) "Ought Not to Pass" - Minority (2) "Ought to Pass" - Committee on Education on Bill "An Act to Amend the Determination of the Amount of a School District Budget when the Budget Amount Proposed Fails to Pass" (H.P. 1256) (L.D. 1824) TABLED - May 23, 1991 by Representative GWADOSKY of Fairfield. PENDING - Motion of Representative CROWLEY of Stockton Springs to accept the Majority "Ought Not to Pass" Report.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Crowley of Stockton Springs that the House accept the Majority "Ought Not to Pass" Report and later today assigned.

The Chair laid before the House the second tabled

and today assigned matter:

Bill "An Act Concerning Federal and Other Special Revenue Funds in Maine State Government" (S.P. 685) (L.D. 1819)

TABLED - May 23, 1991 by Representative CHONKO of Topsham.

PENDING - Passage to be Engrossed.

Representative Mitchell of Vassalboro offered House Amendment "A" (H-428) and moved its adoption.

House Amendment "A" (H-428) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: The bill that I am attempting to amend addresses a broad range of federal and other special revenues coming into Maine State Government. I certainly have no quarrel with the excellent work that went into this bill.

However, there is one piece that bears discussion and scrutiny on the part of this House, the piece which would disbar or disallow any member of the Bureau of Public Health from soliciting either directly or indirectly notice that they have a service that they can perform for a fee. I don't believe that the drafters of this bill intended to go quite so far because the public health laboratory now tests for infectious disease. I know I had my well water tested by them when I applied to be a foster parent. The communicable diseases, AIDS, many, many services are performed by the Bureau of Public Health.

The sweeping language of this bill basically says that they can't solicit directly or indirectly your use of their services, which we have said as a legislative body they can provide to the public.

If I understand it, this came about because, and I am going to share with you a note that I received from an employee of the Bureau of Public Health, who happens to live in Vassalboro and we have discussed this issue. He says, "It is our understanding that this proposal language resulted from a discussion of a letter sent by the Public Health Laboratory to engineering firms dealing with closure of landfills. The letter was sent in response to concerns by a person at the Department of Environmental Protection over costs to municipalities of mandated testing for groundwater quality around landfills. It was the intention of the Public Health Laboratory to inform municipalities through the firms handling the closure studies and services of the availabilities of testing services of the Public Health Lab. The intent was to save taxpayer dollars by informing municipalities of these procedures that were available. Insofar as the protection of groundwater qualities is a matter of public health concern, the testing of landfilled affluence and test wells is clearly within the mandate of the Public Health Lab."

The impact of the language here is much broader, it doesn't just eliminate this issue because, as I understand it, the concern was competition with the private water testing company.

My position is that this language doesn't let them tell anybody — if you should call up and ask them, "What does it mean to indirectly solicit someone to use your services? Can you not say my services cost x-amount because, indirectly, you are competing with a private firm because your services may cost less?" It seems to me an unworkable piece

of the statute and if we don't intend that the Public Health Lab to offer the service to the public, frankly, instead of saying that they can't tell you about it, we should say they can't offer the services. I don't think that is what we intended to do.

I would encourage your adoption of this amendment, which would let the Public Health Laboratory continue with the mission for which it was created, to offer low cost, public health testing of water, bacteria, various things that cause communicable diseases so that we will have a handle on the things that are a threat to our citizens around the state. I would encourage the adoption of this amendment.

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

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I hope you oppose this amendment. This came out of a study committee on which I served with Representative Carter. The letter to which the previous speaker referred was clearly a marketing letter, the content was solicitation of business to the Public Health Lab and in direct competition with the private sector. As we all know, often the fees charged by the state agencies are less than the private sector because of state subsidy and that was the concern in the letter. It certainly was not to shut down the functions of the Public Health Lab but we felt strongly that there should not be letters going out that are marketing letters and ensure that the Public Health Lab is kept busy. I hope you oppose this amendment.

I would ask for a Division.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: It is not a complex issue but it is important that you understand what you are voting on. If you can find it on your desks, look at L.D. 819 — the amendment that I am offering simply deletes Sections 7 and 8. In case you can't find it, I am going to read to you what it says. It may be the intent of Representative Foss to keep the lab from competing with private industry but that is not what the language says.

The language says, "No employee of or any other person representing the Department of Human Services may directly or indirectly solicit orders to utilize the services provided by the department for which a fee is charged. Solicitation is prohibited through any oral request including but not limited to a request that is made in person, telephone, or through any advertising medium and through any written request including but not limited to a request that is sent, delivered, or distributed or any advertisement posted in a public place." I ask you, how do people know what the Public Health Lab has for a fee for service? I don't know how they can find out. If I worked there and you called me up and said you had this, I would be a little frightened that I would be violating the law if I told you what services I had.

That is the intent of this amendment. I really don't think it is a workable language.

The SPEAKER: The Chair will order a vote. The pending question before the House is adoption of House Amendment "A" (H-428). Those in favor will

vote yes; those opposed will vote no.

A vote of the House was taken.

90 having voted in the affirmative and 27 in the negative, House Amendment "A" (H-428) was adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-428) in non-concurrence and sent up for concurrence.

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

Bill "An Act to Establish a Fund to Promote Lobster Marketing" (H.P. 818) (L.D. 1172) (C. "A" H-364)

TABLED - May 23, 1991 by Representative MITCHELL of Freeport.

PENDING - Passage to be Engrossed.

On motion of Representative Mayo of Thomaston, retabled pending passage to be engrossed and specially assigned for Thursday, May 30, 1991.

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

An Act to Clarify the Appointment and Dismissal of the Warden of the Maine State Prison (H.P. 775) (L.D. 1107)

TABLED - May 23, 1991 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and specially assigned for Thursday, May 30, 1991.

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

Bill "An Act to Extend Confidentiality Status to Certain Records of Applicants for Housing, Community or Economic Development Activities" (H.P. 1271) (L.D. 1842)

TABLED - May 23, 1991 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Engrossed.

Representative Melendy of Rockland offered House Amendment "A" (H-435) and moved its adoption.

House Amendment "A" (H-435) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-435) and sent up for concurrence.

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

Bill "An Act to Ensure that County Sheriffs Continue to Provide Rural Patrols for Small Towns in the Counties" (H.P. 813) (L.D. 1167)

TABLED - May 23, 1991 by Representative MAYO of

Thomaston.

PENDING - Adoption of House Amendment "A" (H-375) to Committee Amendment "A" (H-305)

House Amendment "A" (H-375) to Committee Amendment "A" (H-305) was adopted.

Committee Amendment "A" H-305) as amended by House Amendment "A" (H-375) thereto was adopted.

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

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

This appears to be a blatant violation of the legislative process. The legislature established a budget committee in Androscoggin County and this committee was given specific directions in budget deliberations as regards to the patrols and they have followed it to a T. Now, there is a peripheral interest to attempt to introduce an exception to the direction in violations that may occur as regards to the legislative process.

I don't feel that there was enough time given to the extent that this type of legislation would have on the whole State of Maine. We know what little segment in our county would be affected but this bill addressed the whole State of Maine.

I ask you and urge you to vote to indefinitely postpone this bill and all its accompanying papers.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: This piece of legislation was brought to the State and Local Government Committee. It was discussed and there were no opponents to this piece of legislation and we felt that it clarified the duties of County Sheriffs. Also in its deliberations, it was unanimously passed out of the State and Local Government Committee. There was no intention of usurping the authority of any county budget committee or of the county commissioners. It simply clarified the fact that county sheriffs will engage in rural patrol and that is simply all this bill does.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: What Representative Joseph has said is exactly what transpired in the committee meeting. However, since this bill has come up, I have received many calls from many of the sheriffs throughout the state supporting this measure. We have many large rural counties in Maine and, unless there is some police patrols out there, many times there are some serious situations which arise.

The bill presented was for a specific county but this legislation, yes, does affect the whole state but many, many of these counties are already doing this so it should not be that disastrous to have this continued and to assure that they will be patrolling those rural areas.

The SPEAKER: The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: I hope today that we can vote to oppose the pending motion so we can go on to accept this unanimous committee report.

I guess I would follow up the two previous speakers to say that there is absolutely no fiscal note or mandate - this is just to clarify the

existing statute as far as the sheriffs' duties go.

I agreed to be a cosponsor to this bill because for the last year in our particular county, two out of our three commissioners, have repeatedly threatened to totally eliminate the whole department, much to our shock. To my shock, this move is being considered, I guess, by some members of this body today. You see, ladies and gentlemen of the House, the only way someone might have a problem with this unanimous committee report is if there is total elimination of the sheriffs departments in a particular county being contemplated. Consider how ludicrous this suggestion is in the face of budgetary cutbacks to the number of state police that have already taken effect and that may have to be expanded in the future. Seventy percent of the rural crime in Maine is being handled by the sheriffs staff and this percentage is going up every year. Please, let's all be clear, this amendment only clarifies the existing practice that all sheriffs are currently providing in every county in Maine. The only way there might be a problem is if there is total elimination of the sheriffs department staff, which is foolhardy consideration.

I urge you to vote against the pending motion so we can go on to accept the unanimous committee report.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I am the one who started this whole thing rolling. I should say that I am sorry but when this first hit the floor, one part of it I didn't like. I agree with the good Representative from Waterville and the good Representative from Jonesboro, when the bill came out of committee, it was all right, there was no damage that could be done, but subsequently, an amendment was placed and it is called House Amendment "A" — that is the one I have great doubts about. Everything up to that point was all right but then House Amendment "A" said, "The sheriff shall as part of his or their patrol duties furnish rural patrols to the towns that have no enforcement agency."

In talking this morning with the sponsor of the motion, the amendment, and the Speaker, there are still parts of it where we had a ruling from the Attorney General. I am still very much concerned. I think a better amendment could be presented. What this does is it (in a way) mandates it. It says, "They shall as part of their patrol duties" — now if they said "they shall" period, I wouldn't mind it but it is "they shall as part of their patrol duties furnish to the towns." They may turn around and say that we will force a contract. The only thing I am concerned about is that any municipality that does not wish to spend money for law enforcement, their own law enforcement, can come back and say, based on this amendment, you must furnish it.

I think at this time that it is not so much the bill should be indefinitely postponed but it is the amendment. It does open the door and I am very much concerned about it.

The intentions of the State and Local Government Committee was very good, there was nothing wrong up to that point, but this applies to each and every county in the State of Maine. This is a problem that arose in Androscoggin County and it should be solely addressed within Androscoggin County, but to say that we shall make it mandatory — to me, "shall" has always been a mandate. You shall do it, not you will

do it or may do it. In a way, I was hoping that this could be tabled until we can come back with a better amendment.

The SPEAKER: The Chair recognizes the Representative from Greene, Representative St. Onge.

Representative St. Onge: Mr. Speaker, Members of the House: An Act to Ensure that County Sheriffs Continue to Provide Rural Patrols for Small Towns in the Counties — there is no fiscal note, there is no mandate, this bill simply clarifies the duties of the sheriff and I repeat, the sheriff. The sheriff is an elected position and can be voted for or against by the people.

I urge that you vote against this motion to indefinitely postpone and realize again that it simply clarifies the sheriff's duties.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: True, there is no fiscal note on this for the state but there certainly is a fiscal note for the counties because these sheriffs are going to take this as a mandate from us for them to expand the sheriffs department. They will be hiring more people and those of us who come from a county that has more than half of their town with organized police departments and who are helping to supplement the other towns who choose not to have to pay a police department, we are concerned about that.

I would like to ask a question through the Chair. Does this concern every County in Maine or can we limit it to Androscoggin County? If they have a problem, let them handle their own.

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

The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: The answer to the question is that this bill does affect all counties in Maine. I would go on to say that every single county in Maine is more than meeting the current language in this bill.

The problem comes to light — if you can take a look at another amendment that has been drafted that may be attempted to be placed onto this bill which says that no patrol shall be provided at all, that's where I believe some county commissioners and some members of this body are coming from. They, to my shock, are considering totally eliminating the sheriff patrol staff in those counties. I think that is a very foolhardy move so I would urge you, again, to vote against the pending motion so we can go on to accept the unanimous committee report.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: If there was no fiscal note on this bill, then why direct the County Sheriffs Department, if they contract for two towns to make up the \$15,000 in estimated costs, how can you say that there is no fiscal note?

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: Obviously from the debate we have heard thus far, it would appear that this apparently is most important to Androscoggin County. I am concerned because if one is to read this bill

and the mandate that is now being entered into the statutes, and I would say that it is a mandate, because the prior statute read "they may patrol" and it is now mandated that "they shall patrol." It is a concern to my county and should to every other county in the state. I am not sure what is going on in Androscoggin County but it seems to me that if you read just the Statement of Fact to the amendment it says, "that the amendment requires that the county sheriff patrol areas in the county that have no local law enforcement." That clearly is a mandate.

Of course there is no fiscal note because the state is not going to pay for it, the county shall pay for it. I will tell you that that could affect every county if the sheriff takes it upon him or herself to enforce that statute or to live up to that statute to its letter, that requires patrol in every town, every rural town. It mandates it.

I urge you to vote for the pending motion.

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

Representative HALE: Mr. Speaker, Men and Women of the House: The purpose of this bill and unfortunately I am the one I guess who started all of this rigamarole, we are not asking the sheriff to stick around for tea, they are asking the sheriffs to patrol their town. This is part of the duty of their job in any county. If they want to cut down on the number of times, that is fine, but we have a number of small municipalities (my own not included) that pay taxes, very dear taxes to the counties. All they ask is that they patrol their municipality, their town.

This is what the Representative from Leeds is talking about. My town has a police force but right now they are just supposed to patrol their county. This is to make sure they continue to patrol it. It doesn't say how many times, how frequently, or long they have to stick around.

One of the amendments says, "if you have a police force" — what if I have one policeman and I have 800 or 900 people and there is a riot, how am I as one law enforcement officer going to take care of them? This is to ensure that there is a degree of law enforcement in every single town in the State of Maine.

I urge you to vote against the pending motion.

The SPEAKER: The Chair will order a vote. The pending motion before the House is the motion of Representative Aliberti of Lewiston that L.D. 1167 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

56 having voted in the affirmative and 68 in the negative, the motion did not prevail.

On motion of Representative Plourde of Biddeford, the House reconsidered its action whereby Committee Amendment "A" (H-305) was adopted.

The same Representative offered House Amendment "B" (H-421) to Committee Amendment "A" (H-305) and moved its adoption.

House Amendment "B" (H-421) to Committee Amendment "A" (H-305) was read by the Clerk and adopted.

Representative Joseph of Waterville moved that House Amendment "B" (H-421) to Committee Amendment "A" (H-305) be indefinitely postponed.

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

Representative PLOURDE: Mr. Speaker, Ladies and Gentlemen of the House: This is a clarification as far as what some counties do. We know that there are some county budgets handled by a budget committee, which is the case of Androscoggin County, and I believe there are two other counties.

What my amendment simply does is it gives the county delegation the opportunity to discuss the budget the way it is done now as far as pertaining to patrols. There has been much debate between my delegation and also with Representative Nutting pertaining to the new language as far as sheriff patrol. As Representative Hastings has already pointed out, this is a mandate. My delegation feels that that is fine if those communities who have a budget committee to oversee the county budget, at least the legislative county delegation will be able to vote on this budget. That is what this amendment does.

The SPEAKER: The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: I hope that this body will go along with the pending motion to indefinitely postpone this House Amendment "B." As I attempted to allude to in the previous debate but wasn't sure whether or not I could because this amendment hadn't been presented yet, this amendment, lo and behold, does say that a sheriff in a county in which the county budget is approved by the county's legislative delegation is not required to patrol those areas in the county that have no local law enforcement. In other words, the department can be done away with.

I would also say that I have talked to other members of Representative Plourde's delegation who do not agree with this proposed amendment. So, I hope you go along with the indefinite postponement of this amendment.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Waterville, Representative Joseph, that House Amendment "B" (H-421) to Committee Amendment "A" (H-305) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

85 having voted in the affirmative and 36 in the negative, the motion did prevail.

Subsequently, Committee Amendment "A" (H-305) as amended by House Amendment "A" (H-435) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-305) as amended by House Amendment "A" (H-435) thereto and sent up for concurrence.

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

Bill "An Act to Authorize Financial Institutions and Credit Unions to Sell Annuities" (S.P. 514) (L.D. 1375) (C. "A" S-156)

TABLED - May 23, 1991 by Representative ERWIN of Rumford.

PENDING - Motion of Representative RAND of Portland to Indefinitely Postpone Bill and Accompanying Papers.

The SPEAKER: The Chair recognizes the

Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you would oppose the current motion to indefinitely postpone this bill. The Representative from Vassalboro, Representative Mitchell, does have an amendment she would like to offer. Obviously, our rules don't allow us a discussion of that but I do believe that it is on your desks and obviously we aren't in a position to consider it until we defeat the motion so I would urge the members to defeat the motion to indefinitely postpone to give Representative Mitchell an opportunity to offer an amendment at this time.

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

Representative RAND: Mr. Speaker, Ladies and Gentlemen of the House: I would urge this body to please continue voting the way they have in the past on this annuities bill and to vote to indefinitely postpone.

I request a roll call.

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

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

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I had an article distributed on the desks and some of you may not have received it so I would like to read into the Record some of the items very quickly. I didn't get one myself so I think some others probably didn't either.

We have heard much about bank failures and I would like to read an article that was in USA Today, Money, Thursday, May 23, 1991. "Insurance Plea: A \$643 million tax claim by the IRS jeopardize the finances of 360,000 policyholders of failed Executive Life Insurance, California's insurance commissioner told Congress. John Garamendi, who seized Executive Life last month, said the filing of the claim could prevent potential buyers from bidding for the company — and if the lien is enforced, the insurer is likely to be liquidated. Garamendi said he is talking with an investor group about buying some of Executive Life's assets and other buyers are being sought."

In addition in the same paper, an article from Baton Rouge, Louisiana: "Guilty pleas were entered by suspended insurance Commissioner Doug Green to bribery charges. He's accused of accepting — with 2 others — cash and services in exchange for 'sympathetic regulations' that became factors in Champion Insurance Co.'s collapse in '89....PSC member Louis Lambert quit governor's race. Cited: difficulty in raising money."

"GAO faults insurance regulators: State insurance regulators are surprisingly slow to shut down failing insurance companies, a new study says.

In 71 percent of the cases studied, state officials did not take formal action against financially troubled insurers until after the companies had declared insolvency, according to the General Accounting Office." I won't read the rest of this article, you may have it on your desks, I hope

that you will defeat the motion before you.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, a point of parliamentary inquiry?

The SPEAKER: The Representative may pose his inquiry.

Representative GWADOSKY: Mr. Speaker, I understand the motion before us is to indefinitely postpone this bill. Given the fact that this bill was in second reading at that time, would the Chair entertain a motion to amend the bill at this time?

The SPEAKER: The motion to amend the bill has priority over the motion to indefinitely postpone.

Representative Mitchell of Vassalboro offered House Amendment "A" (H-437) and moved its adoption.

House Amendment "A" (H-437) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I listened very intently to the concerns raised by this body of allowing financial institutions to sell annuities. One thing that I learned when I left this body, however, was that financial institutions and towns with less than 5,000 can already sell annuities. So I did a lot of thinking and we began to come up with one of the things that was of a concern to you, which was the tie-in sales. I know that my good seatmate, Representative Cashman, was extraordinarily concerned about a bank forcing an individual to buy an annuity in order to get a favored credit rating. If you have an opportunity, would you please look at 437? In Section 1, there is a prohibition saying that "financial institutions authorized to do business in this state may not, in any manner, extend credit, lease or sell properties" and we have added the words "or sell annuities or furnish any service" and then it lists the reasons why in order to get your credit so it is a prohibition and is a violation of the law to require you to buy an annuity in order to get your credit from a bank. That was one concern, which I thought was a reasonable concern, and tried to address in this amendment.

The other issue that was raised, and if we are concerned about this, the only banks over which the State of Maine's Banking Superintendent has control are Maine-chartered institutions, so the amendment would say that "only Maine-chartered financial institutions, be they credit unions or banks, would be allowed to sell annuities." We can then police this issue of the violation of the law of tie-in sales and make sure that things are going according to a plan that this House has devised.

I think it is also important to note that, on the Banking and Insurance Committee, we have worked very hard to keep parity because we don't like for banks to go federal because that takes them out of our jurisdiction, they are only under federal control, and perhaps this would be an incentive for those banks who are not state-chartered to maybe rethink that if they are allowed to sell annuities. I would encourage you to adopt this amendment and let us go forward.

I would address only one other point which was raised which I didn't have an opportunity before because I had already spoken too much on this issue. It was stated that this is not a consumer bill. I



want to talk to you about that for one minute. If we do not pass this legislation, we have conferred a monopoly on one industry. I can't think of very many consumers who are served by monopolies and I would ask you to think about that and that you open this up to competition with the safeguards outlined in this amendment.

I would encourage your support of this amendment.

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

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

I certainly applaud the efforts of the good Representative from Vassalboro to parochialize this bill and make it sound like a good Maine piece of legislation. I believe that the facts are that URISA would preempt this type of legislation and the part of this bill that would apply only to Maine-chartered banks would not prevail.

As far as this being a consumer bill, I don't believe anything has changed. There is no consumer problem with purchase of annuities. Not one consumer has called me about it and certainly no one showed up at the public hearing other than the two Maine interested parties, which were the banks or independent insurance agents.

As far as coercion and tie-ins, they are certainly illegal. Nobody debates that point but the fact remains that there are ways and means that can be used in order to gently persuade people to purchase the products that the bank is offering. The economy hasn't changed a heck of a lot since we last voted on this bill and I don't see any changes in the near future.

I am a little surprised that the good Representative from Rumford could bring up the insolvency of an insurance company as something that would promote her side of this issue. If we want to get into fiscal responsibility, if we look at the S&L debacle, it renders the insurance company that is failing, renders that practically a non-issue, we are talking probably close to a trillion dollars worth of debt that you and I and our children and grandchildren are going to have to pick up.

The only thing that has happened as far as I am concerned of any new information that I have received is that some of the small community banks in Maine have complained and are very frightened about this bill because they are small and they do not wish to enter into the risk business which would be what the annuity business is. They have made it known that they will have to in order to compete with the larger banks and they are not happy about having to enter into that line of business.

Finally, my concerns still lie with our independent agents. I believe I mentioned before that, because of the pressing financial problems the state is experiencing, the Banking and Insurance Committee has already, as a committee, approved legislation that is going to take a bite out of the independent agents' paychecks. These are good Maine people, good hardworking taxpayers, and I don't believe we should make any move at all in these bad times to hurt their incomes anymore. We made the decisions that we did as a committee solely for the benefit of the property taxpayers who have about as much as they can handle right now. The bill I am referring to is the one that would allow school districts to insure with the Maine Risk Insurance

Organization.

I would ask you to please follow my light and indefinitely postpone this amendment and then we can move on to indefinitely this entire bill.

On motion of Representative Mayo of Thomaston, tabled pending the motion of Representative Rand of Portland that House Amendment "A" (H-437) be indefinitely postponed and specially assigned for Thursday, May 30, 1991.

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

(Off Record Remarks)

On motion of Representative Ketover of Portland, Adjourned at 10:01 a.m. until Thursday, May 30, 1991 at four o'clock in the afternoon.