

MAINE STATE LEGISLATURE

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

VOLUME VI

SECOND REGULAR SESSION

House of Representatives
March 10, 1992 to March 31, 1992

Senate
January 8, 1992 to March 9, 1992

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
27th Legislative Day
Tuesday, March 17, 1992

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

Prayer by Reverend Kenneth L. Smith, Unity Union United Methodist Church.

The Journal of Monday, March 16, 1992, was read and approved.

SENATE PAPERS

Unanimous Ought Not To Pass

Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act to Establish the Fraud Investigation Division within the Department of Audit" (S.P. 901) (L.D. 2320)

Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Resolve, to Review the Public Safety and Criminal and Civil Justice Systems (EMERGENCY) (S.P. 906) (L.D. 2326)

Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act to Protect Intelligence and Investigative Information in the Custody of the Department of Corrections" (EMERGENCY) (S.P. 927) (L.D. 2383)

Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Resolve, to Expand the Use of the University of Maine System's Interactive Television System (S.P. 902) (L.D. 2322)

Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Resolve, to Study the Structure of the University of Maine System and Examine Options for Better Integrating the University of Maine System and Maine Maritime Academy (S.P. 903) (L.D. 2323)

Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Resolve, to Establish Regional Boundaries for Natural Resource Services (EMERGENCY) (S.P. 905) (L.D. 2325)

Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Resolve, Authorizing the Maine Coalition for Excellence in Education to Study Education Policy in the State (EMERGENCY) (S.P. 908) (L.D. 2328)

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

COMMUNICATIONS

The following Communication: (S.P. 954)

115TH MAINE LEGISLATURE

March 13, 1992

Senator Dale McCormick
Representative John Jalbert
Chairpersons
Joint Standing Committee on Aging, Retirement and Veterans
115th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Eunice Cotton of Augusta for appointment to the Maine State Retirement Board of Trustees.

Pursuant to Title 5, MRSA Section 17102, this nomination will require review by the Joint Standing Committee on Aging, Retirement and Veterans and confirmation by the Senate.

Sincerely,

S/Charles P. Pray
President of the Senate

S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Aging, Retirement and Veterans.

Was Read and Referred to the Committee on Aging, Retirement and Veterans in concurrence.

The following Communication:

THE MAINE SENATE
115th Legislature

March 16, 1992

Hon. John L. Martin
Speaker
Maine State House of Representatives
State House Station 2
Augusta, Maine 04333

Dear Speaker Martin:

This is to inform you that, as of this date, the Commission on Comprehensive Energy Planning, established under Resolves, 1991, Ch. 50, has held its required public hearings and has completed a preliminary draft energy plan as required. The work of the Commission is now substantially complete. The current working draft of approximately 100 pages is available for review and can be obtained from the State Planning Office.

The Commission has planned an additional round of public comment to ensure that its work benefits from the greatest possible level of public input into this important policy-making process. A public hearing on the draft plan has been scheduled for April 7. A

final report will be issued shortly thereafter.

Sincerely,

S/John Cleveland
Senate District 22

Was read and ordered placed on file.

**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:

Later Today Assigned

Bill "An Act to Reform the Workers' Compensation System" (H.P. 1735) (L.D. 2423) (Presented by Representative LIPMAN of Augusta) (Cosponsored by Senator CARPENTER of York, Representative HASTINGS of Fryeburg and Representative CARLETON of Wells) (Governor's Bill)

(The Committee on Reference of Bills had suggested the Committee on **Banking and Insurance**.)

On motion of Representative Mitchell of Vassalboro, tabled pending reference and later today assigned.

**PASSED TO BE ENGROSSED
WITHOUT REFERENCE TO COMMITTEE**

Bill "An Act to Extend the Appraisal License Effective Date" (EMERGENCY) (H.P. 1734) (L.D. 2422) (Presented by Representative LIBBY of Kennebunk) (Cosponsored by Senator BALDACCI of Penobscot, Representative SHELTRA of Biddeford and Senator RICH of Cumberland) (Governor's Bill)

(The Committee on Reference of Bills had suggested the Committee on **Business Legislation**.)

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

By unanimous consent, ordered sent forthwith to the Senate.

ORDERS

On motion of Representative MAHANY of Easton, the following Joint Order: (H.P. 1731)

Ordered, the Senate concurring, that the Joint Standing Committee on State and Local Government consider proposing an amendment to Article V, Part 1, Section 2 of the Constitution of Maine to provide for 2-year terms for the Governor, with a suggested limitation of 5 consecutive terms.

Was read.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: As you know, I have previously tried to (and some of you have cosponsored that bill) create a level playing field between the legislature and the Executive Branch by proposing four year terms for the Representatives and Senators. Unfortunately, that proposal got bogged down over in the other body. I still, however, believe very strongly that the Senators, Representatives and Governor should go out for re-election at the same time. I do believe and am convinced that that does create a level playing field. I am referring here to the balance of powers and I would remind you that for 137 years, from 1820 until 1957, that legislators and the Governor went out re-election at the same time. I believe there was a reason for that and a reason why the founding fathers put the terms in that posture, coterminous posture. We were all to go out to get the evaluation of the electorate, the people, at the same time.

Furthermore, it isn't always the case but I do think that, in general, our going out at different times for re-election or giving the Executive Branch an advantage of having a four year term vis-a-vis our two year terms has affected the dynamics between the two branches. I think it has affected it in a way that discourages rather than encourages cooperation. I noticed that this isn't always necessarily the case but I think, in general, it is the case.

You can draw your own conclusions about that, I won't go into detail, but I do want to emphasize that, in my judgment and I think in the judgment of many of you, that the dynamics between the two branches is, to some extent, undermined by the very fact that we do not have to go out at the same time to receive the evaluation of the people.

If the Governor goes out with the rest of us every two years, personally I am not too concerned about the limitation of terms but if I were to suggest one, I would suggest a five consecutive term limitation.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Ladies and Gentlemen of the House: The State and Local Government Committee heard in a leadership meeting this morning as one that is burdened with a great many issues already at this point. It seems logical to me that the House express an opinion on this subject and they will decide whether to take this order under advisement or to simply have the opinion of the House that is not something that we want to deal with at this point in time. Therefore, Mr. Speaker I ask for a roll call on this Order.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: It is true that the State and Local Government Committee is dealing with many issues dealing with the structure of state government. For precisely that reason, I believe that this Order and the other Orders that I am presenting ought to be in that mix and be considered. That's all I am asking that they be considered in the overall mix of ideas and proposals.

The SPEAKER: A roll call has been requested.

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

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

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

ROLL CALL NO. 350A

YEA - Adams, Anthony, Bell, Cahill, M.; Cote, Crowley, Gean, Gray, Gwadosky, Hichborn, Hoglund, Holt, Joseph, Ketover, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Mahany, Mayo, McHenry, McKeen, Michael, Mitchell, J.; Oliver, Paradis, J.; Paradis, P.; Pfeiffer, Poulin, Powers, Rand, Stevens, P..

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Boutilier, Butland, Carleton, Carroll, D.; Carroll, J.; Cashman, Cathcart, Chonko, Clark, H.; Coles, Constantine, DiPietro, Donnelly, Dore, Duplessis, Dutremble, L.; Erwin, Farren, Foss, Garland, Goodridge, Gould, R. A.; Graham, Greenlaw, Hale, Handy, Hanley, Hastings, Heeschen, Heino, Hichens, Hussey, Jacques, Jalbert, Kerr, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Macomber, Manning, Marsano, Martin, H.; Melendy, Merrill, Michaud, Mitchell, E.; Morrison, Murphy, Nadeau, Nash, Norton, O'Dea, O'Gara, Ott, Parent, Paul, Pendexter, Pendleton, Pineau, Pines, Plourde, Pouliot, Reed, G.; Reed, W.; Richards, Richardson, Ricker, Rotondi, Rydell, Saint Onge, Salisbury, Savage, Sheltra, Simonds, Simpson, Skoglund, Small, Stevens, A.; Stevenson, Strout, Swazey, Tammaro, Tardy, Townsend, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, Whitcomb, The Speaker.

ABSENT - Bowers, Clark, M.; Daggett, Duffy, Farnsworth, Farnum, Gurney, Hepburn, Ketterer, Luther, Marsh, Nutting, Ruhlin, Spear.

Yes, 33; No, 104; Absent, 14; Paired, 0; Excused, 0.

33 having voted in the affirmative and 104 in the negative with 14 being absent, the motion did not prevail.

Sent up for concurrence.

On motion of Representative MAHANY of Easton, the following Joint Order: (H.P. 1732)

Ordered, the Senate concurring, that the Joint Standing Committee on State and Local Government consider proposing an amendment to the Constitution of Maine to provide for a unicameral Legislature.

Was read.

On motion of Representative Mahany of Easton, tabled pending passage and specially assigned for Wednesday, March 18, 1992.

On motion of Representative MAHANY of Easton, the following Joint Order: (H.P. 1733)

Ordered, the Senate concurring, that the Joint Standing Committee on State and Local Government consider proposing an amendment to the Constitution of Maine to eliminate barriers to democracy by amending the language in Article IV, Part Third, Section 16 that requires the vote of 2/3 of the members of each House to enact an emergency measure and by amending the language in Article IV, Part Third, Section 2 that requires the vote of 2/3 of the members of each House to override the veto of a measure by the Governor, and that the committee report out such legislation as it determines necessary to eliminate or reduce the requirement for a 2/3 vote.

Was read.

On motion of Representative Mahany of Easton, tabled pending passage and later today assigned.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative JACQUES from the Committee on Energy and Natural Resources on Bill "An Act to Improve the Efficiency and Effectiveness of the State's Natural Resources Protection Programs" (H.P. 1528) (L.D. 2157) reporting "Ought Not to Pass"

Representative BENNETT from the Committee on Labor on Bill "An Act to Clarify and Amend the Laws Regarding Independent Medical Examiners" (H.P. 1533) (L.D. 2166) reporting "Ought Not to Pass"

Representative BENNETT from the Committee on Labor on Bill "An Act to Encourage Workers' Compensation Insurers to Undertake Employer Safety Programs" (H.P. 1587) (L.D. 2241) reporting "Ought Not to Pass"

Representative BENNETT from the Committee on Labor on Bill "An Act to Make Revisions in Workers' Compensation Employment Rehabilitation" (H.P. 1488) (L.D. 2100) reporting "Ought Not to Pass"

Representative JOSEPH from the Committee on State and Local Government on Resolve, to Study Technical Education in Maine Public Secondary Schools (H.P. 1658) (L.D. 2335) reporting "Ought Not to Pass"

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. 1443) (L.D. 2055) Bill "An Act Concerning

the Renewal of Agency Liquor Store Licenses" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1121)

(H.P. 1616) (L.D. 2277) Bill "An Act to Broaden and Specify Conduct for Which the Certificate of a Law Enforcement Officer May Be Suspended or Revoked" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1118)

(H.P. 1535) (L.D. 2168) Bill "An Act to Clarify and Make Technical Changes in the Hospital Care Financing System" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1122)

(H.P. 1451) (L.D. 2063) Bill "An Act to Make Electronic Monitoring and Substance Testing Programs Economically Feasible" (EMERGENCY) Joint Select Committee on Corrections reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1126)

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.

PASSED TO BE ENACTED

Emergency Measure

An Act to Conform the Maine Income Tax Law for 1991 with the United States Internal Revenue Code (H.P. 1461) (L.D. 2073)

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 Extend the Reporting Date of the Commission to Study State Permitting and Reporting Requirements (H.P. 1550) (L.D. 2188)

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. 113 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 Clarify Responsibility for Workers'

Compensation Coverage for Town Forest Fire Wardens and Laborers Hired for Forest Fire-fighting Activities (H.P. 1561) (L.D. 2199) (C. "A" H-1060)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 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 Maine's Underground Oil Storage Tank Laws (S.P. 837) (L.D. 2141) (C. "A" S-613)

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. 103 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 Relating to the Division of a Member's Rights and Benefits under the Maine State Retirement System Pursuant to a Qualified Domestic Relations Order (H.P. 711) (L.D. 1016) (H. "A" H-1091 to C. "A" H-924)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 111 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Strengthen Maine's Governmental Ethics Laws (H.P. 1618) (L.D. 2279) (C. "A" H-1061)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 111 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Authorize a Bond Issue of \$300,000 to Expand the Sagadahoc County Courthouse to Include Detention Facilities (H.P. 1619) (L.D. 2280) (C. "A" H-1063)

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

FINALLY PASSED

Emergency Measure

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Hancock County for the Year 1992 (H.P. 1724) (L.D. 2413)

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

PASSED TO BE ENACTED

An Act to Increase the Penalties for Committing Repeated Crimes against the Person and Repeated Acts of Domestic Violence (H.P. 1428) (L.D. 2040) (C. "A" H-1068)

An Act to Allow Counties to Blanket Bond Part-time Deputy Sheriffs (H.P. 1436) (L.D. 2048)

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 Revise the Maine Horticultural Laws (H.P. 1498) (L.D. 2110) (H. "A" H-1092 to C. "A" H-986)

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

Later Today Assigned

An Act to Clarify and Improve the Regulation of Home Food Service Plans (H.P. 1501) (L.D. 2113) (H. "A" H-1006 and H. "B" H-1048 to C. "A" H-987)

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

Later Today Assigned

An Act to Provide a Private Remedy for Violation of the Lead Poisoning Control Act (H.P. 1515) (L.D. 2127) (C. "A" H-1066)

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

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

PASSED TO BE ENACTED

An Act to Amend the Laws Concerning the Maine State Housing Authority and the Finance Authority of Maine (H.P. 1540) (L.D. 2173) (C. "A" H-1071)

An Act to Protect School Students from Potential Harm (H.P. 1541) (L.D. 2174) (H. "A" H-1087 to C. "A" H-968)

An Act to Amend the State's Unclaimed Property Act (H.P. 1569) (L.D. 2211) (C. "A" H-1073)

An Act to Address Periodic Crises in the Preparation and Mailing of Checks to Clients of the Department of Human Services and to Ensure Priority Payment of Foster Care Expenses (H.P. 1605) (L.D. 2267) (C. "A" H-1080)

An Act Relating to the Arthur R. Gould School (H.P. 1695) (L.D. 2375) (C. "A" H-1067)

An Act to Ensure Adequate Resources for Energy Assistance Programs for Low-income Households (S.P. 319) (L.D. 857) (C. "B" S-616)

An Act Regarding Budget Advisory Committees in Hancock County and Lincoln County (S.P. 814) (L.D. 2013) (C. "B" S-619)

An Act to Amend the Definition of Ambulatory Surgical Facilities (S.P. 833) (L.D. 2137) (C. "A" S-615)

An Act to Repeal the Limitation on State Reimbursement for County Jails (S.P. 934) (L.D. 2392)

(S. "B" S-600)

An Act to Clarify the Laws Related to Credit Cards (H.P. 1410) (L.D. 2022) (S. "C" S-618 to C. "A" H-895)

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

ENACTOR

Later Today Assigned

An Act to Allow the Separation of Certain Islands in Casco Bay from the City of Portland (H.P. 1634) (L.D. 2298) (C. "A" H-1095)

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

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

PASSED TO BE ENACTED

An Act Pertaining to the Assessment of Fees on Nuclear Power Plants (S.P. 829) (L.D. 2133) (C. "A" S-610)

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

ENACTOR

Later Today Assigned

An Act to Establish a Boundary between the Town of Skowhegan and the Town of Madison (H.P. 1612) (L.D. 2273)

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

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

PASSED TO BE ENACTED

An Act to Amend the Subdivision Laws within the Jurisdiction of the Maine Land Use Regulation Commission (H.P. 1514) (L.D. 2126) (H. "A" H-1077 to C. "A" H-957)

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

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

Representative COLES: Mr. Speaker, Men and Women of the House: I request a Division and I would just like to remind the House that this is the bill to allow 25,000 to 30,000 acres of land to be subdivided without adequate subdivision review.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: Before we vote on this bill, I want to tell the members of the House my concern about it.

This piece of legislation changes a law that was passed here a couple of years ago. It was enacted basically at the request of two developers who hired a prominent Augusta lobbying firm, the Beliveau outfit, to bring a bill to my committee and we talked about it a lot. This was a Divided Report and you debated it the other day and it looks like it is going to pass but nonetheless I think you should know how I feel about the bill.

I think it is really a bad thing for a legislature to take a bill out and pass a bill that basically helps a couple of people get around a law that was enacted two or three years ago. I think it really sends a bad message out to the public and I think those bad messages are why the public is so dissatisfied with public officials today.

I got some real estate developers in my district and when they want to have a development they have to have a survey done and then they take the survey to the Registry of Deeds and register the survey. Then they go to the Planning Board and get their subdivision approved or disapproved. In this particular case for a few developers, maybe five, two of them really seem to want it badly, they are going to have their subdivision approved just by the fact that they had it surveyed. That is creating two different classes of developers so I don't think it is fair and I don't think it is right. I think it is a special law for two or three special people and I think it really stinks. I don't think this legislature should be passing stuff like this.

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

Representative JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief. This is an issue that we debated long and hard a couple of weeks ago. It was a 103 to 37 votes.

These people who are looking for special treatment, I want to remind you the reason that they are here is because of a law that we passed that we thought we were doing something and we didn't.

I would ask you to support this bill. It does not leave a million acres of rampant destruction in the State of Maine.

Mr. Speaker, I request a yeas and nays.

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

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

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

ROLL CALL NO. 351

YEA - Aikman, Aliberti, Anderson, Bailey, H.; Bailey, R.; Barth, Bell, Boutilier, Butland, Cahill, M.; Carroll, J.; Cashman, Cathcart, Clark, H.; Cote, DiPietro, Donnelly, Dore, Duffy, Dutremble, L.; Erwin, Farren, Garland, Gould, R. A.; Graham, Greenlaw, Gwadosky, Hale, Hoglund, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Larrivee, Libby, Look, Lord, Luther, MacBride, Macomber, Mahany, Manning, Marsano, Martin, H.; McHenry, Melendy, Merrill, Mitchell, E.; Morrison, Murphy, Nadeau, Nash, Norton, Ott, Paradis, J.; Paradis, P.; Parent, Paul, Pendexter, Pendleton, Pineau, Pines, Plourde, Poulin, Pouliot, Reed, G.; Reed, W.; Richards, Ricker, Rotondi, Saint Onge, Salisbury, Savage, Sheltra, Skoglund, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tammaro, Tardy, Townsend, Tracy, Vigue, Waterman, Whitcomb.

NAY - Adams, Anthony, Ault, Bennett, Carroll, D.; Chonko, Coles, Constantine, Crowley, Daggett, Duplessis, Foss, Goodridge, Gray, Handy, Hanley, Heeschen, Heino, Hichens, Holt, Kontos, Kutasi, Lawrence, Lebowitz, Lemke, Mayo, McKeen, Michael, Michaud, Mitchell, J.; O'Dea, O'Gara, Oliver, Pfeiffer, Powers, Rand, Richardson, Rydell, Simonds, Simpson, Small, Treat, Tupper, Wentworth.

ABSENT - Bowers, Carleton, Clark, M.; Farnsworth, Farnum, Gean, Gurney, Hastings, Hepburn, Hichborn, Lipman, Marsh, Nutting, Ruhlin, The Speaker.

Yes, 92; No, 44; Absent, 15; Paired, 0; Excused, 0.

92 having voted in the affirmative and 44 in the negative with 15 being absent, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

Later Today Assigned

An Act to Make Revisions in Marine Resource Laws (H.P. 1464) (L.D. 2076) (C. "A" H-1079)

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.

FINALLY PASSED

Resolve, to Authorize the Director of the Bureau of General Services to Condemn in the Name of the State Certain State-owned Land in the Town of Warren and the Town of Cushing and Exchange Boundary Line Agreements with Abutting Landowners (H.P. 1611) (L.D. 2272) (C. "A" H-1064)

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

The Chair laid before the House the following matter: An Act to Revise the Maine Horticultural Laws (H.P. 1498) (L.D. 2110) (H. "A" H-1092 to C. "A" H-986) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Tardy of Palmyra, under suspension of the rules, the House reconsidered its action whereby L.D. 2110 was passed to be engrossed.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-986) as amended by House Amendment "A" (H-1092) thereto was adopted.

The same Representative offered House Amendment "B" (H-1124) to Committee Amendment "A" (H-986) and moved its adoption.

House Amendment "B" (H-1124) to Committee Amendment "A" (H-986) was read by the Clerk and adopted.

Committee Amendment "A" (H-986) as amended by House Amendment "A" (H-1092) and House Amendment "B" (H-1124) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-986) as amended by House Amendment "A" (H-1092) and House Amendment "B" (H-1124) thereto in non-concurrence and sent up for concurrence.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1120) on Bill "An Act to Restore Control and Stability to the Bureau of Alcoholic Beverages" (H.P. 1670) (L.D. 2346)

Signed:

Senators:

MILLS of Oxford
KANY of Kennebec

Representatives:

LAWRENCE of Kittery
JALBERT of Lisbon
PLOURDE of Biddeford
DAGGETT of Augusta
POULIN of Oakland
RICHARDSON of Portland
STEVENS of Sabattus
TUPPER of Orrington
HICHENS of Eliot
BOWERS of Sherman

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

Signed:

Senator:

SUMMERS of Cumberland

Reports were read.

Representative Lawrence of Kittery moved that the House accept the Majority "Ought to Pass" Report.

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

Representative STEVENS: Mr. Speaker, Men and Women of the House: This is a piece of legislation that we worked very hard on in the Legal Affairs Committee for a number of reasons. It has quite a lot of history and I would like to read a little bit back into the Record if I could.

Going back to the First Session of the 115th Legislature, we had a piece of legislation to close 10 liquor stores to go along with the budget. As a committee, I speak for myself only, but the committee went along unanimously not to close the 10 stores. We came up with the idea of closing 5 stores in five major cities instead of the 10 country stores. The cities were Portland, South Portland, Lewiston, Waterville and Bangor for a number of reasons, one of them being that restaurants cannot purchase from an agency store. We have more than 500 restaurants in this state that had to purchase their alcohol somewhere. Also in closing the 5 within the cities, we wouldn't upset the budget end of it because we came up with the amount of money that was needed.

They were supposed to report back to us in February or January on how it was going to take place. In December, when working on the budget, we came up with another group of stores to be closed. We hadn't had the results from the first stores to be closed and it bothered me a little bit not knowing what was going to happen to the first five before we started into another group of stores. A lot of the little stores that was going to be closed are in a strip mall or their communities are built around some of their areas where there is only a one or two person operation. They would open from 9 to 5 and going to agency stores, we had no idea what their hours would be so we wanted to find out the results from the first five stores before we went on with anymore. In the bidding on the first five stores, of the 15 bids, 9 went to one concern. Again, we figured maybe we should slow it up a little bit and try to get a handle on it because I think it is more of a serious item closing the stores than people realize.

There are a lot of different problems involved. They have to work on an 8 percent profit and that eliminates a lot of the small stores but yet there is a movement I have found out about by talking to the Commissioner, directors and so forth that they would like to go to 16 percent profit. If they are going to do that, we should do it first and not after we have bid them out.

We tell them the amount of stock that they have to have in their agency stores but we don't tell them what brands. They could use the fastest moving brands and not the ones that people might like to have. We haven't told them whether or not they can advertise. State stores don't do any advertising but our agency stores can. They could be open from 5 or 6 in the morning until midnight. Also, we don't know for sure who is going to be stocking the shelves, who is going to be carrying the bags out or what the criteria would be on it. They didn't even have a good listing in the papers to advertise for agency stores on the first five. We were told, like in the Bangor area, that the ad said we are going to be hunting for agency stores in the Bangor area but they never mentioned Brewer at all. Yet, when one of the

bids went out, it went to a store in Brewer, which is using close to the same yard as Brewer High School. I don't think that that should have happened. The one in Auburn is within a mile or so of the State Store as it is now that was given the bid. They also have said in the newspapers that they are going to be moving a larger store out by the Auburn Mall. If they do that, they would be within a half a mile. Of course, that probably would have to be rebid but there are so many things that should be answered before we privatize that that's the reason I signed on to this piece of legislation because we didn't have a store in the state that was losing money. There were some of them that could be revamped and I hope you will go along with our committee, even though it is not a Divided Report in the House.

I would like to have a roll call to get an idea how many people would like to see it slowed down.

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

ROLL CALL NO. 352

YEA - Adams, Aikman, Aliberti, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Boutilier, Butland, Cahill, M.; Carroll, D.; Carroll, J.; Cashman, Cathcart, Chonko, Clark, H.; Constantine, Cote, Crowley, Daggett, DiPietro, Donnelly, Dore, Duffy, Dutremble, L.; Erwin, Farren, Goodridge, Gould, R. A.; Graham, Gwadosky, Hale, Handy, Heeschen, Hepburn, Hichborn, Hichens, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Kutasi, Larrivee, Lawrence, Lebowitz, Lemke, Libby, Look, Lord, Luther, MacBride, Mahany, Manning, Martin, H.; Mayo, McHenry, Melendy, Merrill, Michael, Michaud, Mitchell, E.; Mitchell, J.; Murphy, Nadeau, Nash, Norton, Nutting, O'Dea, O'Gara, Oliver, Ott, Paradis, J.; Paradis, P.; Parent, Paul, Pfeiffer, Pineau, Pines, Plourde, Poulin, Pouliot, Powers, Rand, Reed, W.; Richards, Richardson, Ricker, Rotondi, Rydell, Saint Onge, Salisbury, Savage, Sheltra, Simonds, Simpson, Skoglund, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tamaro, Tardy, Townsend, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, The Speaker.

NAY - Bennett, Coles, Duplessis, Foss, Garland, Greenlaw, Hanley, Heino, Macomber, Marsano, Morrison, Pendexter, Pendleton, Reed, G.; Small, Spear.

ABSENT - Bowers, Carleton, Clark, M.; Farnsworth, Farnum, Gean, Gray, Gurney, Hastings, Lipman, Marsh, McKeen, Ruhlin, Whitcomb.

Yes, 121; No, 16; Absent, 14; Paired, 0; Excused, 0.

121 having voted in the affirmative and 16 in the negative with 14 being absent, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-1120) was read by the

Clerk and adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-1120) and sent up for concurrence.

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1125) on Bill "An Act Concerning Indian Territory under the Maine Indian Claims Settlement Laws" (H.P. 1218) (L.D. 1776)

Signed:

Senators: GAUVREAU of Androscoggin
BERUBE of Androscoggin

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

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

Signed:

Senator: HOLLOWAY of Lincoln

Representative: HANLEY of Paris

Reports were read.

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

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

Mr. Speaker, Ladies and Gentlemen of the House: What we have is a slightly Divided Report on this particular legislation, L.D. 1776. This was a holdover bill from the 1st Regular Session of this Legislature. In January when we reconvened, we had extensive hearings and we referred the matter over to the Joint Standing Committee on Energy and Natural Resources. They held extensive, and I want to emphasize the word extensive, workshops on this bill. They met over the course of the month of January with our two Representatives from the Indian tribes, the Penobscot Nation and Passamaquoddy Tribe and their council. They reported back to the Judiciary Committee what is essentially before us today which is Committee Amendment "A."

What Committee Amendment "A" essentially asks this body to do is to keep the faith with the Indian Land Claims Settlement Act of 1980, to amend it briefly, perhaps a year from now, to include certain lands that are not presently within the Land Claims Act.

I wholeheartedly endorse the concept because there have been no problems with the Indian Land Claims Settlement Act. This bill, as presented to us this morning, allows the Penobscot Nation and

Passamaquoddy Tribe to develop a comprehensive plan to deal with some new land that would not be within the LURC jurisdiction as defined in this Committee Amendment, present the plan to the Joint Standing Committee on Energy and Natural Resources, which would then be required to hold a public hearing and report to this House and the other body their recommendation. It would then have to be accepted by both entities of this entire legislature before it could go into effect. If LURC were to report to us that the Penobscot Nation and Passamaquoddy Tribe are not living up to their end of the bargain, the Energy and Natural Resources Committee can then take subsequent action to remove this provision and return it to what is the status quo today. It keeps the faith with what prior legislatures have understood to be the agreement between the Penobscot Nation, the Passamaquoddy Tribe and the people of the State of Maine. That is why I endorse it.

There are enough stipulations in the Committee Amendment that hold both sides to the unanimous agreement that would have to be endorsed by the tribes and by the Legislature. I see nothing wrong with that. It is a minor step, not a major departure from the Land Claims Settlement. It envisions that we consider some parcels of territory presently under LURC to be considered as it would be a municipality.

Those who sit on the Energy and Natural Resources have worked hard and long to bring this Committee Amendment about today. I complement them. Without their help, our committee could have never have understood all of the intricate laws and amendments that go into LURC jurisdiction in our unorganized territories.

I urge the body to accept the Majority Report. I encourage debate on the matter from the body because I think it will only strengthen the position of the Majority signers. I hope that any member who has participated in this process gets up this morning and shares with all of us their feelings about the amendment.

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

Representative HANLEY: Mr. Speaker, Men and Women of the House: I will have to respectfully disagree with the good House Chair of my committee as far as this amendment is just a minor step in the Indian Land Claims Settlement Act.

Luckily this bill, L.D. 1776, has had the opportunity to be reviewed by not only one committee, the Judiciary Committee, but also the Energy and Natural Resources Committee. It is a very complicated issue. The Judiciary Committee spent many hours reviewing this legislation, the Energy and Natural Resource Committee spent even more reviewing this legislation.

In 1980 when the Land Claims Settlement Act was adopted by the State of Maine, the issue of state and natural resource laws and the relationship between LURC and the Indian Nation Trust Land was discussed. At that time, Tom Tureen and AG Richard Cohen both acknowledged that LURC's procedure would apply to the trust land.

If I could just share with you for a moment some excerpts from the public hearings that were held on the Indian Land Claims Settlement Act — the question was raised by Representative Bonnie Post who asked Attorney General Cohen, "Could you tell me please if the Indian territories would be considered an existing municipality or a new municipality as far as

state statutes are concerned and I am particularly interested in the zoning issue?" Attorney General Cohen responded, "They would be considered a new municipality." Representative Post followed up by saying, "A new municipality, so it would come under the statutes for a new municipality?" Attorney General Cohen affirmed, "That is correct."

Representative Brown then posed a question, "My second question deals with the development of land use ordinances. Presently the unorganized territory is or development in the unorganized territory is controlled by the Land Use Regulation Commission, what would be the procedure whereby the tribes would develop their own land use ordinances and how would they then be accepted?"

Attorney General Cohen responded, "Well, they would go through the same process as a new municipality. Representative Post discussed this a week or two ago and our feeling is that as a new municipality would come initially the plan under the Land Use Regulation Commission for approval and in the same type of procedure that would exist in any other municipality would exist in this particular newly acquired area."

When we originally heard this bill, the Penobscot Nation presented us a very comprehensive and extensive land use plan. They developed this plan since the bill was originally introduced in the First Session of the 115th. I asked the question at that time to David Boulter, Chairman of the Land Use Regulation Commission, whether or not if the Penobscot Nation introduced their plan to LURC would it then be approved and would they then be treated as a municipality? Mr. Boulter answered, "Yes, we have had an opportunity to review their plan, it fits our needs and we see no problem of having them then have this land use ordinance adopted by the Nation and have it under their control."

Since that time, the Passamaquoddy Nation has also initiated the process where they would develop their own land use ordinance. They have put money aside to hire personnel to complete this, working in tandem with the tribal members.

The problem with this amendment — if I can just go back — at that time when I posed the question as far as the Penobscot Nation land use ordinance and the fact that LURC would accept that and then they would be considered as a municipality and then the ordinances would be enforced by the tribe itself, I asked what would be the impact if this wasn't to go through as far as having a land use ordinance enacted by LURC? So, some questions were raised and the Judiciary Committee not having the expertise in LURC and how they operate, voted to send this bill to Energy and Natural Resources. I felt fine with that, felt comfortable with that, that the Energy and Natural Resources Committee has the expertise, they have been dealing with LURC for many years and have a feeling for exactly what LURC does and their responsibility for land use protection.

The bill came back from Energy and Natural Resources Committee after many hours of their work. The original amendment that came back from Energy and Natural Resources was voted on by our committee and was voted out unanimously. Less than a week later, it was decided that maybe the Energy and Natural Resource Committee's original amendment didn't quite do everything that was expected or wanted by the Nation. So, some minor modifications were made to that amendment and that is when the process started

to break down.

I had put faith in the Energy and Natural Resources Committee, they had spent many, many hours reviewing this, had come to a compromise that they felt would protect both the interests of the State of Maine and the abutters. These abutters are throughout the state as far as the unorganized territory and are anywhere from five acres up to 14,000 acres.

In the committee the discussion went to, well, would we be having a different scale here for abutters, for those in municipalities next to an unorganized territory where the Indian Nations would have land held in trust, would they then be held to a different standard than their abutters? That is where I had the largest concern and the fact that, once this is done and by referencing the Land Claim Settlement Act in both sections one and two of the amendment, we amend the Indian Land Claims Settlement Act. Once it is ratified by the Nation, this body no longer has control of the issue. After that time, the Legislature, the State of Maine, cannot unilaterally change what we are doing today. From that point on, it would have to be accepted by both the Nation and the Legislature. I think that is of utmost concern to me — the fact that the Attorney General's Office was involved with all the debate on this. Bill Stokes was there through almost all the hearings and all the work sessions and was opposed to the bill. The fact that we are amending the Indian Land Claims Settlement Act, something that the state has never asked to do, but the Nation has asked on a number of occasions, specifically this session, we have amended the Indian Land Claims Settlement Act a number of times for tribal courts, for certain land held in trust for expansion, we have done that. But, this step will impact not only the Nation but abutters to those lands. Once this goes through, all deals are off as far as the Legislature is concerned, it is no longer our issue, it now has to be accepted by both the Legislature and the Indian Nations.

I would suggest that the better course of action at this point in time would be to hold off and defeat this bill in front of us currently so we can have further discussions. I know that in the crunch of the legislative schedule, we are pushed to sometimes inhumane time restraints but in this matter, I would suggest us to take some caution and a little bit more research to bring the rest of the House and other body up to speed on exactly what is involved with this issue.

As I said before, I am happy that two committees have had an opportunity to spend hours and hours becoming familiarized with this issue. I just hope that everyone else on the floor will bring themselves up to speed and listen to the debate before they make a decision. I would suggest that you vote against the pending motion.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: I would urge you not to vote against the pending motion and I will tell you why. This was an issue that we did do not in a rushed state. As a matter of fact, it came to us when we still had a little breathing room and we spent many hours on it. The good Representative from South Paris has expressed his concerns to you and if I could I will try to get to what the heart of this

whole problem is.

It is not a question of who does what, the point being that someone will make a decision if the ordinance is adopted by both Nations are equal to or greater than the standards that are applied in the rest of LURC. One of the problems that the nations had was going to LURC to have that decision made. They feel they don't have to do that. Some of us on the committee felt they did and some were kind of in between.

What the committee ended up doing is coming out with a version that requires them to submit the plan after they utilize all the rest of the State of Maine's department services for input, comment, in order to try to help them avoid making mistakes that other unorganized territories have made in their attempts to get out of LURC. That would be Fisheries and Wildlife, Conservation, DEP and LURC itself to help them, that they would submit that plan to the committee having jurisdiction over land use, that being the Energy and Natural Resources Committee. Then we would have a full public hearing on those ordinances so that people could see if in fact the land use ordinances proposed by both tribes, both Nations, were indeed as strict as or maybe even stricter than some of the standards that we apply to the rest of LURC. Basically it would be two separate recognized forms of government, the Penobscot Nation and the Passamaquoddy Tribe coming to the Maine Legislature, another recognized former of government, not a form of government going to a bureaucracy or agency or sub-agency of a major agency but indeed one form of government coming to another form of government. That suggestion was put forth by Representative Coles and I think it was a good one.

What we will do then is examine to make sure that all the abutting land owners in LURC to the trust lands that will be coming out of LURC jurisdiction are indeed afforded the same type of protection that everyone else has. We will then be recognizing the traditional use of lands as will now be in place by the fact that they are no longer owned by other people but they are now part of the Indian Nation lands, recognizing their traditional values and some of the traditional uses that will be in place by the people on those lands versus the long time uses before the land changed hands. You have got to remember now that the Settlement Act made provisions for the Nations to acquire trust lands. In the Settlement Act, we even specifically said where those lands could be acquired. It wasn't downtown Waterville, downtown Augusta, it has specific areas in the Settlement Act where they could get those lands.

If the concern is that those abutting landowners will not be protected, that assurance is there. The Energy and Natural Resources Committee will have a chance to review it. I can guarantee you that LURC will be there, that Fish and Wildlife will be there, that all interested parties will be there to walk through these ordinances to make sure that the protection that we all want to be there will be there.

One point that wasn't mentioned is that it is true that ratification has to be there. It was not the Energy and Natural Resources Committee that came out with that, it was Jon Hull who is the legal counsel for the Speaker, who was the lawyer involved in the original Settlement Act. I want to point out that, out of the whole committee, I am the only one left that was here in 1980 when we voted on this

original proposal.

Mr. Hull pointed out that even under the guidelines we have that a ratification provision has to be there before we can make these changes. He suggested the language that was adopted by our committee. I don't have any problem with that. Some people seem to think that, once it is ratified by the Nations, if we pass this bill today, that that is where it ends, that basically after they have been removed from LURC jurisdiction, they will be free to do whatever they want. Section 695 of the Bill that talks about the effective date, if you may indulge me, it says, "After the effective date of a resolve enacted by the Legislature that approves the plan submitted pursuant to this subchapter, the Maine Land Use Regulation Commission has no jurisdiction over trust lands governed by that plan and the implementing ordinances, provided that the adoption of the approved plan and ordinances by the Passamaquoddy Tribe or the Penobscot Nation is certified to the Secretary of State according to the certification procedures established in Title 3, section 601, and the plan and ordinances are administered and enforced by the Passamaquoddy Tribe or the Penobscot Nation." That means that if the Legislature signs off on a plan, if the Nation and the Tribe come from outside and without LURC jurisdiction, they will remain outside of LURC's jurisdiction as long as they administer and enforce those plans and ordinances that have been adopted by the Nations and by this Legislature. If they fail to administer and enforce, they would automatically revert back to LURC jurisdiction. They have agreed to that and we have agreed to that because it does not leave things up in the air, it does not leave things yet to be determined. It states very clearly that, once we have signed off and once they have signed off, both the Passamaquoddy Tribe and Penobscot Nation and they fail to enforce and administer those ordinances, then they would automatically revert back to LURC jurisdiction and they would be no further ahead than they are today. I submit to you that they have not gone through this process to have that occur. We have been assured by both the Representatives of the Passamaquoddy Tribe and the Penobscot Nation that they want to do things right, they want to make sure they get along with their neighbors, they want to make sure that the environment is protected.

I would submit to you, who are we to criticize the Native Americans in this state on how we take care of our natural resources. With all due respect to ourselves, I think that we have a lot to answer for some day, a lot less than they do or probably ever will. I would submit to you that the Energy and Natural Resources Committee could work on this issue for weeks and weeks left but I believe ultimately that we would come out with the same report that we recommended to the Judiciary Committee. Above and beyond the philosophical issues at hand, the fact of purely land use issues, what is right and what is wrong, what will protect our environment and what will not, I believe that we have crafted the best piece of legislation that we can under the circumstances that were given to us which is to try to stay away from costly and probably irrelevant litigation.

I would urge you to support the Majority Report of the Judiciary Committee and go along with what the Energy and Natural Resources Committee, after many

hours of deliberations, has recommended unanimously to you and the Judiciary Committee. I assure you that we take our responsibility on that committee very seriously and we will follow this agreement as well as the commitment that was made to us by both the Passamaquoddy Tribe and the Penobscot Nation. I urge your support.

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

Representative LORD: Mr. Speaker, My Learned Colleagues: I think our House Chair did a wonderful job putting forth the whole situation we are in and what we did. I feel personally that we have enough safeguards there. I am not a lawyer, I am just an old farmer, but I think we tried our best to have enough safeguards in there that if things weren't carried out, and I am sure they will, I have faith in the folks over there and their tribe, that they will carry it out. I hope that you will support the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Township 27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: As sponsor of L.D. 1776, I would like to clarify a few facts that are out there that are not justified. First, L.D. 1776 became a bill because of a long standing dispute between the tribes and the state as to who had jurisdiction over their land. There has never been a need to litigate the issue and rather than litigate it in court, they felt that a bill to accomplish their goals would save the expense of litigation both for the tribes and for the state. If you look at what is being asked in this bill, it asks for a comprehensive land use plan and ordinances to be approved. The law presently allows that same plan and ordinances to be approved through approval of LURC. Because of the dispute, the tribes are asking that the Energy and Natural Resources Committee approve that plan.

I was present at the workshop of Energy and Natural Resources, there is no question that it was stated several times that LURC would be involved and the LURC standards would be applied to the comprehensive plan. Rather than get into the middle of the dispute over jurisdiction, the Energy and Natural Resources Committee focused on the goal and made the statement that if the goals can be achieved without litigating the jurisdiction problem, then they felt it should be accomplished. That is all that L.D. 1776 does is provide that vehicle to accomplish the goal without litigation.

The second statement that I would like to clarify is that the Land Claims Settlement should never be changed. Twelve years ago when the Land Claims Settlement came into existence, the tribal governments were practically non-existent. Over the past 12 years, the tribal governments have really done a superb job in developing a formal government for the tribes. As that government develops, the necessity to change the Land Claims Settlement is going to increase. If we don't recognize the tribes and the tribal governments and make those changes, then we are doing a great injustice to the tribes.

I would urge you to support L.D. 1776, the Majority Report, because I think it is the right thing to do and it is being fair to the tribal governments.

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

Representative Attean.

Representative ATTEAN: Mr. Speaker, Men and Women of the House: First, I would like to try and give you a little perspective of why the tribes felt this legislation was necessary. Primarily, I would like to correct a statement made by Representative Hanley from Paris. It has not always been just the tribes who have requested that the terms of the Land Claims be changed. Early on in 1982 and 1983, when it proved impossible to get an active retired judge to serve as the Chairman of the Tribal State Commission, then Governor Brennan requested the tribes submit legislation to rectify that. The result is what the current statute is.

It is true that the tribes have requested amendments to the Settlement Act and that is because the Settlement Act is a dynamic document needing change as conditions change. Congress recognized this when they first enacted the Federal Companion piece of legislation and gave their prior approval. I will quote to you, "The consent of the United States is hereby given to the State of Maine to amend the Maine Implementing Act with respect to either the Passamaquoddy Tribe or the Penobscot Nation provided that such amendment is made with the agreement of the affected tribe or Nation and that such an amendment relates to various amount of issues including jurisdiction, criminal laws, tribal courts, etcetera."

I will also quote to you from the same document that Representative Hanley has used and quote the Senate Chair of the Joint Select Committee on Indian Affairs, Senator Collins of Knox, in which he said, "No act of this complexity will be free from question marks. There will be interpretations necessary through the years just as there are interpretations necessary of all the statutes that we pass."

I submit to you ladies and gentlemen of the House that in an area that is so complex as this, we need to have this process. It is not a done deal, it is not written in stone.

To give you my perspective of why we felt this legislation was necessary, I would just like to point out to all here that when LURC was first enacted on state statute books as it is today, as it was then, the Reservations have always been exempt from LURC. We were recognized then in 1971 as being the local zoning board, if you will, the local government in control able to decide its own affairs. Right after the Settlement Act was signed, there was much confusion about what applied and what didn't apply. LURC itself, at many staff meetings at which we participated, was unclear as to whether their jurisdiction covered Federal Indian Trust Lands. The tribes fell back on a provision contained in the Federal Act. Let me read that one to you, "Land or natural resources acquired by the Secretary in Trust for the Passamaquoddy Tribe and the Penobscot Nation shall be managed and administered in accordance with terms established by the respective Tribe or Nation and agreed to by the Secretary in accordance with Section 102 of the Indian Self-determination and Education Assistance Act or other existing law." That, ladies and gentlemen, is the fundamental basis of why we assumed that LURC has no jurisdiction. As a federally recognized Indian Tribe, we have this charge of self-determination and self-governance. We have a tribal council and governor as well as many other bodies elected through our general elections who are charged with doing various things as they pertain to tribal government.

It was only after a few years that LURC indeed tried to exert their jurisdiction. By that time, I think everybody became entrenched in their philosophical differences. We tried to negotiate with many people on this whole issue. We tried to explain the different perspectives of the tribes and how they relate to land.

Ladies and gentlemen, I am not sure if many of you realize but trust land is land that is not owned by the tribe, it is owned by the United States Government and held in trust for the exclusive use of the affected Indian Tribe or Nation. None of the states laws were drafted with that concept in mind or the unique uses that the tribes may put their land or how they may use it.

I would like to personally thank each and every one of those committee members on Energy and Natural Resources as well as Judiciary who put in such long hard hours on this very complicated issue.

One of the examples that I used — in current state law they talk about substandard structures. How would the state view a substandard structure such as the traditional use of land — I will use sweat lodge because it seems to be the only one that people can relate to — there are many other uses of land that Indians have that would be considered non-traditional in the state's eye. The Energy and Natural Resources Committee recognized that difference in values when they put together their amendment and they said, "The Committee shall determine whether the plan meets the criteria established in this subsection. The committee shall vote to accept the plan if, when taking into consideration the values and objectives of the tribe, the committee determines that the plan meets A through I, very comprehensive standards."

The submission of this legislation was not an easy task. We tried and debated long and hard over whether or not to submit legislation. We chose to submit separate legislation, L.D. 1550, and the Passamaquoddy Tribe submitted their own, which is L.D. 1776.

The Committee of jurisdiction, in this case Judiciary, chose to work the two bills together and the tribes agreed. The tribes have worked long and hard in reaching what we view as an acceptable compromise to go on, meet goals, to get this behind us.

I am not sure that many of you are aware but I have been honored by the Speaker of this House to be a member of the National Conference of State Legislatures Task Force on Tribal State Relations. It is our goal that issues of this magnitude can be resolved without litigating, simply by talking to each other. Many of you have received the issue of the NCSL magazine in which we speak to this concept. I couldn't have put it much better when they had the headline, "Groups Foster Better Relations Between Tribes and States." Ladies and gentlemen, this was an attempt by my tribe, by the Passamaquoddy Tribe, to talk to people to settle an issue through talking. We feel that we were successful. We went to the Judiciary Committee, who then sought the expert advice of the Energy and Natural Resources Committee, who then unanimously endorsed what is now before you as Amendment H-1125.

During all of this long, strenuous time, there were many questions raised, many questions answered to the satisfaction of all on how this process would work. When the good Representative, Representative

Coles, made the suggestion that we could relate on a government to government basis, that appeared to be the motivating force to accepting this particularly amendment. I couldn't have put it better than Representative Jacques in that the tribe, when dealing with an agency, didn't get the respect that it deserved as a tribal government.

The agency has state laws to guide them, they are good state laws, but they don't take into consideration the difference between federal Indian trust land and land that is owned by any other group or person in the state. When our tribal members wanted to use what is effectively their land, although they don't hold legal title to it, that transfer of use was deemed a subdivision. It is my understanding from debate earlier on in this chamber that a subdivision is not a subdivision until lots are offered for sale or you actually sell one and you transfer ownership. The ownership of Indian land can never happen, it is protected against alienation by federal law. It is protected in its use by tribal law. It will now be protected in its future use by applicable state law.

It has been my understanding that the reason that Jonathan Hull, Counsel to the Speaker, who has long been involved in this issue, wanted to see ratification language included which has since the states and tribes who are attempting to find a process that was unclear in the Settlement Act than it would need, not only the permission of the state, but also of the tribes. This amendment was carefully crafted, it was not designed to be confrontational, it did not decide where the jurisdiction was, it was a step forward, a step towards a goal. The tribes support this legislation, we have worked hard for it, we have compromised on it and I would ask you to support the Majority "Ought to Pass" Report.

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

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

To any member of the committee, particularly of the Judiciary Committee or the Energy and Natural Resources Committee — if this law as amended is adopted by this legislature and a comprehensive plan is submitted to the Energy and Natural Resources and the ordinances pursuant to that plan are implemented and approved by the Energy and Natural Resources Committee and this legislature then imposes a more restrictive environmental law such as shoreland zoning has become more restrictive over the years, if that law then comes into place in the State of Maine, absent the consent of the tribal nation, does that law then apply automatically to the tribal nation?

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

The Chair recognizes the Representative of the Penobscot Nation, Representative Attean.

Representative ATTEAN: Mr. Speaker, Ladies and Gentlemen of the House: In response to the good Representative's question, Representative Hastings, all environmental laws, rules, regulations of the state apply to Indian land.

This amendment is the process by which the tribes will reach that goal. That language is quite clear in the Settlement Act itself.

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

Representative HASTINGS: Mr. Speaker, Ladies and Gentlemen of the House: I would call your attention to Section 694 of Committee Amendment "A" (H-1125). That Act, as I read it, indicates that once the plan has been submitted and the ordinance is implemented pursuant to the plan and then approved by the Energy and Natural Resources Committee, then that plan and ordinances are administered and enforced solely by the Nation and it doesn't say anything about any authority of the state to subsequently change those ordinances if the state passes a more restrictive law.

Now, I commend the committee on the process that they have developed apparently and I will accept their determination that there was a discrepancy or dispute, if you will, as to who had jurisdiction over this issue and this tries to tie the jurisdiction and the policy and procedure that is to be used for the tribal nations and their land use plans and ordinances. What concerns me though is that absent unanimity of the parties, that is the tribal nation and the State of Maine, I see nothing that would indicate the result which I was just given an answer to that in fact those laws would become effective on the ordinances and plan previously approved. As you know, towns often have ordinances which meet the criteria set up by this legislature on certain provisions such as lot size, how far away things have to be developed from lakes and streams. However, this seems to say that the plan, once approved, and its ordinances, as long as they administer those plans and ordinances, that is the enforceable law. I have difficulty only with that issue of the proposed amendment.

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

Representative JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: That is a good question and I would be glad to answer it.

All this does is put into place a mechanism to get out of LURC's jurisdiction. Once you are out of LURC's jurisdiction, just like any other municipality, you would then come under DEP's jurisdiction, both the reservation and the trust lands. Coming under DEP's jurisdiction, you would be subject to any new laws passed by the legislature dealing with land uses, shoreland zoning and everything else just like any other municipality. There needs to be no mechanism for that because that is the law. The only thing this bill does is get you out of LURC's jurisdiction, just like any other unorganized township that wants to become a municipality. This puts into play the basic minimum comprehensive plan in Land Use ordinances that meet the criteria to remove you from LURC's jurisdiction. Once you have been removed, the burden will be on you to make sure that those minimum standards are kept in the place and are enforced that removed you from LURC's jurisdiction. But from that moment on, Representative Hastings, you are now a municipality and come under the full jurisdiction of DEP, which means that you are subject to any laws that this body and the Governor signs changing shoreland zone ordinances or land use ordinances across the state. They would be treated no different than any other municipality today.

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

Representative ATTEAN: Mr. Speaker, Ladies and Gentlemen of the House: Thank you, if I may answer

the good Representative, Representative Hastings, question — I know that Representative Hastings is an attorney and would like a clear, concise answer and, hopefully, I can supply it.

If Representative Hastings were to go and look into 30 M.R.S.A., Section 6204, laws of the state to apply to Indian lands. It is quite extensive and I will not quote word for word. It basically says what Representative Jacques has said. Further in that same law, there is a provision that "the tribes shall be subject to all the duties, obligations, liabilities and limitations of a municipality." To the many people I have spoken to in this chamber, you know how I choke when I use the word municipality. We are first and foremost an Indian Tribe, we accepted the municipal model so that we could live in peace with the rest of the state. I would hope that that satisfies Representative Hastings' questions; if not, I will be glad to answer any others that he may have.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Augusta, Representative Paradis, 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.

78 having voted in the affirmative and 2 in the negative, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-1125) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-1125) and sent up for concurrence.

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

CONSENT CALENDAR

First Day

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

(H.P. 1714) (L.D. 2399) Bill "An Act to Reestablish the Mining Excise Tax Trust Fund Board of Trustees" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1128)

Under suspension of the rules, Second Day Consent Calendar was given, the House Paper was passed to be engrossed as amended by Committee Amendment "A" (H-1128) and sent up for concurrence.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on

Bill "An Act to Establish a Budget Committee and Process for Cumberland County" (EMERGENCY) (H.P. 1603) (L.D. 2265)

Signed:

Representatives: WATERMAN of Buxton
SAVAGE of Union
NASH of Camden
LARRIVEE of Gorham
HEESCHEN of Wilton
JOSEPH of Waterville
KILKELLY of Wiscasset
LOOK of Jonesboro
KERR of Old Orchard Beach

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1129) on same Bill.

Signed:

Senators: BERUBE of Androscoggin
BUSTIN of Kennebec
EMERSON of Penobscot

Representative: GRAY of Sedgwick

Reports were read.

On motion of Representative Joseph of Waterville, the Majority "Ought Not to Pass Report was accepted. Sent up for concurrence.

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

SENATE PAPER

The following Joint Order: (S.P. 955)

ORDERED, the House concurring, that Bill, "An Act Requiring the Provision of Information to Victims of Gross Sexual Assault," H.P. 359, L.D. 513, and all accompanying papers, be recalled from the Governor's desk to the Senate.

Came from the Senate, read and passed.

Was read and passed in concurrence.

ORDERS OF THE DAY

UNFINISHED BUSINESS

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

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

An Act to Clarify Maine's Rent-to-own Laws (H.P. 1594) (L.D. 2248) (C. "A" H-1033)

TABLED - March 16, 1992 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

On motion of Representative Sheltra of Biddeford, under suspension of the rules, the House reconsidered its action whereby L.D. 2248 was passed to be engrossed.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-1033) was adopted.

The same Representative offered House Amendment "A" (H-1132) to Committee Amendment "A" (H-1033) and moved its adoption.

House Amendment "A" (H-1132) to Committee Amendment "A" (H-1033) was read by the Clerk and adopted.

Committee Amendment "A" (H-1033) as amended by House Amendment "A" (H-1132) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-1033) as amended by House Amendment "A" (H-1132) thereto in non-concurrence and sent up for concurrence.

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

An Act to Broaden Reporting of Persons Operating Vehicles under the Influence of Intoxicating Liquor or Drugs (H.P. 1691) (L.D. 2371)
TABLED - March 16, 1992 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

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

Representative O'Dea of Orono was granted unanimous consent to address the House:

Representative O'DEA: Mr. Speaker, Men and Women of the House: Today the Public Utilities Commission is taking up the Bangor-Hydro Electric rate cases. As you may know, the forecast model used to justify their recent rate increase was seriously flawed and the result has been a substantial increase in electric rates in Bangor-Hydro service area. This increase affects the elderly, the needy, and businesses and everybody now is forced to deal, not only with the stagnated economy but also the rate increase. Today the PUC should act to repeal this.

I would just encourage all of you to watch this very closely because it is something that affects all the businesses, your elderly and needy people.

On motion of Representative Duffy of Bangor, Recessed at 12:38 p.m. until 5:00 p.m.

The House was called to order by the Speaker.

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

**PASSED TO BE ENGROSSED
WITHOUT REFERENCE TO COMMITTEE**

Bill "An Act to Create the Fort Kent Utilities District" (EMERGENCY) (H.P. 1736) (L.D. 2424) (Presented by Representative PARADIS of Frenchville) (Cosponsored by Senator THERIAULT of Aroostook) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

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

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative GRAY from the Committee on State and Local Government on Bill "An Act to Strengthen the Public Disclosure of Lobbying Activities" (H.P. 1591) (L.D. 2245) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1130)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-1130) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-1130) and sent up for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 1679) (L.D. 2356) Bill "An Act to Strengthen the Campaign Finance Reporting Laws" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1131)

On motion of Representative Whitcomb of Waldo, was removed from the Consent Calendar, First Day.

Subsequently, the Committee Report was read and accepted, the bill read once.

Committee Amendment "A" (H-1131) was read by the Clerk.

Representative Whitcomb of Waldo offered House Amendment "A" (H-1134) to Committee Amendment "A" (H-1131) and moved its adoption.

House Amendment "A" (H-1134) to Committee Amendment "A" (H-1131) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: House Amendment "A" is a bill that we did not get to debate last year. This bill

limits the amount of money that a political action committee can donate to a candidate to \$100 per election for campaigns in this state.

This is done so as an effort to curb what is perceived in the public as a growing influence of political action committees upon the election process in our state. This activity would not begin until the end of this campaign season but it is a sincere attempt to begin to limit the process.

We have, I think, in the public a growing distrust of how the political process is influenced, how a few individuals can apply money and, if not gain access to candidates, at least creates the impression that they have the ability to have an undue influence over the political process. So, I offer this amendment as an opportunity to change that process and to begin to create in the mind of the public a more positive opinion of the political campaigns.

I recognize full well that any individual has a perfect right to accept or not accept political action donations and I think what this does in statute is convince the public that they will not be the strong influence that is occasionally reported that they are in the campaign process. I would urge your support for this amendment.

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

Representative MAYO: Mr. Speaker, I request a ruling of the Chair if this amendment does not violate the Joint Rules having been introduced as a bill in a prior session?

The SPEAKER: The matter will be tabled pending a ruling from the Chair.

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

SENATE PAPERS

The following Communication:

Maine State Senate
Augusta, Maine 04333

March 17, 1992

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 Energy and Natural Resources, Caroline M. Pryor of Northeast Harbor for appointment to the Land Use Regulation Commission.

Caroline M. Pryor is replacing Elizabeth Swain.

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

March 17, 1992

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, the Honorable Daniel Wathen of Augusta for appointment as Chief Justice of the Maine Supreme Judicial Court.

The Honorable Daniel Wathen is replacing Chief Justice McKusick.

Sincerely,

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

Was read.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I wanted to briefly make a statement on the Record regarding the Communication which we have from the other body.

Making notice that Associate Justice of the Supreme Judicial Court, Daniel Wathen of Augusta, has been confirmed by the Senate to be the next Chief Justice of the State of Maine. He is the first alumnus of the University of Maine Law School to achieve this particular distinction so I think it is a particularly noteworthy day for the University of Maine System. It is a particularly noteworthy day for the residents of the small town in Aroostook County of Easton who shares in the distinction of having the new Chief Justice from their area. He is the product of small town, rural Maine. It is noteworthy that he has chosen the city of Augusta to reside in, begin his practice of law several years ago to serve as a Superior Court Justice in Kennebec County, to be nominated from Augusta to be an Associate Justice of the Law Court and now to be chosen by our Governor to be the Chief Justice of the State of Maine.

I think that Justice Wathen is preeminently qualified by virtue of his education and his temperament to be the next Chief Justice of the state. He exhibited those qualities superbly before the Judiciary Committee on Saturday. When we held a confirmation hearing, he answered every question and presented himself better than any nominee that I have ever seen in my 8 years on that committee. It was truly a pleasure to have someone like that before the committee to head the Third and Coequal Branch of

Government. I complement Justice Wathen this afternoon as he gets ready to assume the position of Chief Justice. I don't think I will be around when there is another nominee after Justice Wathen's years as Chief Justice go by. So, it is a distinction for me to be a Representative from Augusta and to be able to participate on Saturday in the hearings and vote on the nomination and recommend confirmation of Justice Wathen.

Some have been so unkind as to suggest now that Justice Wathen is the incumbent and new Chief Justice that Aroostook County will control one-half of the three co-equal branches of government and I refuse to believe that for one moment. I think he will do a superb job whether he is a practicing judge from Augusta or a former resident of Easton. I think he will be a superb addition in the position of Chief Justice and he will do the people of this state truly well in the years ahead. I commend his energy and his intellect and his integrity as he leads the court into the 21st Century.

Subsequently, was ordered placed on file.

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

Divided Report

Majority Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-626) on Bill "An Act to More Clearly Define the Role and Responsibilities of the Department of Mental Health and Mental Retardation" (EMERGENCY) (S.P. 721) (L.D. 1911)

Signed:

Senators: CONLEY of Cumberland
BOST of Penobscot
GILL of Cumberland

Representatives: MANNING of Portland
CLARK of Brunswick
DUPLESSIS of Old Town
SIMONDS of Cape Elizabeth
GOODRIDGE of Cornville
TREAT of Gardiner
WENTWORTH of Arundel
GEAN of Alfred
PENDLETON of Scarborough

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

Signed:

Representative: PENDEXTER of Scarborough

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-626).

Reports were read.

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

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendexter.

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: I just would like very briefly to explain why I signed the "Ought Not to Pass" Report.

If you can find your amendment, it is filing number 626. Basically what this bill does is it creates two pilot regional authorities from mental health services. There would be region one, which would be Aroostook County and the second region would be region five, which is York and Cumberland Counties. These regional boards would be totally volunteer in nature. It would consist of 17 members and at least five of those members have to be consumers of mental health services and at least five more members have to be family members of consumers. No more than two members can be mental health professionals. That totally leaves out the providers of mental health services. Section C-4 even remotely removes anybody who is remotely related to a provider.

I wouldn't call this a cooperative working together of all facets of mental health services.

The committee did create a structure which formed an advisory committee to this regional board which did comprise of providers but I still have a problem with it because I just don't think it is an even playing field.

I have a problem with the volunteer board being defined (and this is under Section C-3 of the amendment) as an instrument of the state that performs essential governmental functions. I have a problem with volunteer boards providing case management services and I have a problem with volunteer boards entering into contracts with the department and other government and non-governmental entities. I see this as a setup for future regional bureaucracy that we now do not presently have. At a time when we should be sensitive to bureaucracy in general, more so should we be extremely careful in setting up the stage for more bureaucracy. These boards will eventually hire staff such as Executive Directors and whatever. It is set up as a free ride for now but a future substantial fiscal note is a reality.

My last concern is this, starting July 1, 1992, Region 1 and Region 4 will have to deal with these regional entities until January 1st of 1994. What if this doesn't work out? We are stuck with this process for a year and a half no matter what and the rest of the state will continue to conduct business as usual. There are still a lot of unanswered questions to this process. I am not convinced that this is the way to go in spite of departmental support.

Mr. Speaker, I ask for a Division.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Brunswick, Representative Clark, 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.

73 having voted in the affirmative and 24 in the negative, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (S-626) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (S-626) in concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 916) (L.D. 2353) Bill "An Act to Establish a Supervised Community Confinement Program for Certain Prisoners of the Department of Corrections" **Joint Select Committee on Corrections** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-632)

(S.P. 863) (L.D. 2207) Bill "An Act Regarding Retail Liquor Sales" **Committee on Legal Affairs** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-625)

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. 9 were taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Allow Municipalities to Appeal the New State Valuation" (EMERGENCY) (H.P. 1692) (L.D. 2372)

Signed:

Senators: BOST of Penobscot
COLLINS of Aroostook
ESTY of Cumberland

Representatives: NADEAU of Saco
DORE of Auburn
DiPIETRO of South Portland
BUTLAND of Cumberland
DUFFY of Bangor
CASHMAN of Old Town

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1136) on same Bill.

Signed:

Representatives: HEPBURN of Skowhegan
MURPHY of Berwick
MAHANY of Easton
TARDY of Palmyra

Reports were read.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I move that the House accept the Majority "Ought Not to Pass" Report.

Under current Maine law, the State Tax Assessor has to set the state valuation by February 1st. Towns receive their notification of what their value will be prior to that date and they have 45 days to appeal their value. The reason that it is important that the state value be set early in the year is because, as members of this House know, the state value is what we base school subsidies on, what we base revenue sharing on and what we base the county tax on.

The bill before you this afternoon originally intended to allow 4 communities to have an extension on the amount of time that they have for filing an appeal. The problem that the committee had with that was that the state value for this year has already been set so if we allow communities, any number of communities, to have more time for appeal and they win their appeal, the Bureau of Taxation would have two choices, either they adjust everybody else's value to reflect the increase in the community that won their appeal as a decrease or you have to put a fiscal note on the bill to pay the community back for lost revenue in school subsidy and revenue sharing. I think everybody in the House knows we haven't got any money so that option is out. The second option didn't seem fair to the other 400 and whatever towns in the state who didn't appeal the valuation.

The amendment version that is the Minority Report goes beyond the original 4 towns and picks up an unnamed number of towns, it would be anywhere from 20 to 60 that would be allowed to appeal and it just makes the situation worse. I think the proposal in that report is to not reimburse the towns that appeal and win their appeal not reimburse them this year but rather to adjust their value for next year. While I point out to members of the House that those towns can appeal next year anyway and to reimburse them for this year, even if you are going to try to do it next year, a bill would have to be put in with a fiscal note on it and, again, with the current revenue shortfall in this state, the committee felt that it would have rather tough sledding so the majority of the committee vote the bill out "Ought Not to Pass." I hope the House will support that.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: My good Chair from Taxation has told you almost what this amendment will do. However, the idea of coming out with this Minority Report was because many municipalities came to us (and there were four) who thought they had filed appropriately but when it came right down to it, you have to file in two places, one with the Bureau of Taxation and the other with the Board of Appeals. One municipality in particular filed with the Bureau of Taxation and that's where it stayed so the Board of Appeals turned it down. One of the other municipalities was a few days late in filing. I know one of the towns down near my district wanted to have an appeal so they met with the Bureau of Taxation and they were quite unhappy with the way they were treated. I feel if a town wants to have an appeal,

they should have that right to appeal.

What this amendment will do is it will give any town the right to appeal who had a 10 percent increase in their tax valuation for 1991 and an average of a 20 percent increase in the past three years. They have to have those two things in order to be granted an appeal.

This does take in a number of towns, I can't tell you exactly, but many towns had 20 and 30 percent increase — one town had like 26, 36 and a 20 percent increase over the last three years — and then a 10 percent increase this year. That is quite an increase in valuation.

There is no fiscal note on this bill because we knew we didn't have any money so we said, if you appeal and you win that appeal (because if you lose it doesn't make any difference anyway) and your valuation is reduced down where it should be, you will not receive any money for that this year. We also felt that it was not fair that next year every other municipality has to lose part of their education funding and their revenue sharing to pay for this so we said we will have to put in a separate bill to pay so we would have a total of what is owed to these municipalities. We would put in a bill to pay for that and, hopefully, we can get it through Appropriations but there is no guarantee on this bill that they will get that money back next year.

What it will do, when they come out next year, their subsidy will be dependent upon whatever their reduction was if they win their appeal.

I think this is a very fair bill. I think it is sad when municipalities think their valuation is wrong and they don't have the right to appeal. I understand that the Appeal Board is the one that makes this decision and I do realize there is a statute that says they have 45 days but I find that most of these small municipalities whose selectmen are only part-time. They work all day and then they meet every other week and 45 days to these people goes by pretty fast. I know in some cases they probably don't even realize that they have a right to appeal in that 45 days. So, I feel that any town who has a question should have a right to appeal and the Appeals Board should at least sit down and listen to their complaints. I know the cities have full-time assessors, planners, town and city managers and these things are kept up to date. In municipalities where there are two, three or five selectmen who are working all day long, some of them work overtime, they are in those meetings until one or two o'clock in the morning, I have been there so I know what happens, that they should not be denied this right to appeal.

I would hope that you would vote against the "Ought Not to Pass" Report so we could go on to accept the "Ought to Pass" Report.

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

Representative LORD: Mr. Speaker, My Learned Colleagues: I am the one that submitted the bill. We have two situations here, there are two towns that got their stuff in on time to the Department of Taxation. As a matter of fact, the town of Whitefield sent the appeals to the State Board of Appeals Board in care of a person in the Bureau of Taxation that they had talked to previously. That laid on his desk or somewhere until the expiration date of the deadline and they were rejected.

The town of Franklin, I understand there is

somebody here who will discuss this I believe, did about the same thing. The other two towns, Mechanic Falls (I don't know too much about that but I am sure that my dear friend over here sitting on my left will speak on it) and the town of Waterboro, my town, and I have a good story to tell you folks. It is a good story too.

This year the state raised our valuation \$46,100,000 which is 22 percent and that is the highest in York County. As a matter of fact, the only other municipality in Cumberland County that was higher than ours was Scarborough and theirs was 22 percent so those are two southern counties and we are second highest. Quite an honor.

If you look at the valuation in my town for the last three years, it went up 63.44 percent. We got whammed!

Why did I do this? Well, because of this fact, we have a new young fellow that came down from Aroostook County who was the assistant to the selectman and he has been the town planner and we have a Board of Selectmen that is part-time and one of the board of selectmen was a former member of the Appeals Board in the Brennan Administration. He told our assistant that he had until January 1st to get the application in. The application was dated December 13th. Now it stands to reason to me that with the valuation we have and the increase we got, if he was sure it should have been in by the 45 days, it was a foul up. He has done a job, and I mean a job, he has gone through all the valuation that went on in the town of Waterboro and this is his report. He said, if you do a job, you can't do it in 45 days. No way in the devil can you do it. So, he did a good job, a thorough job, and we are way out of line, way, way out of line. Based on his figures and using the system that the State Assessors use, there shouldn't have been a valuation of an increase of more than \$26 million dollars at the utmost.

This isn't penalizing the three selectmen and him, it is penalizing every property owner in the town of Waterboro. They are also hurting the people of those other two towns that really got their application in on time. There is no godly reason at all why they shouldn't have done something (that Board of Appeals) to help those two towns out. There is no reason in the world why they shouldn't have. It seems to me that they don't have much feeling for the people out there in the smaller towns.

It isn't what Representative Murphy and the Minority Report came out, it isn't much but a half a loaf is better than none and I think you will find that there was a lot of towns that had a very high increase in the state valuation and I think you will find that the same thing happened as far as meeting the deadline on this as they have missed the deadline on filing for their Tree Growth Tax. They are taking a shellacking and I don't think you people here would want this to happen. I hope you will reject the Majority Report and accept the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Ladies and Gentlemen of the House: I would urge that you not accept the "Ought Not to Pass" Report so that we can go on and take a look at this amendment.

I represent the town of Whitefield and the folks in Whitefield, even though it is a very small town and doesn't have full-time staff and does have three

part-time selectmen, did in fact file their appeal on time. However, they filed their appeal with the State Tax Assessor instead of with the State Board of Property Tax Review. Because of that, they were denied the access to the system, they were denied their opportunity to appeal.

This bill doesn't require anyone to appeal, it only offers an option for those communities to appeal that meet the criteria that are outlined here. The only way there would be a financial consideration next year would be if any of those towns were to win their appeal. There certainly is no guarantee of that, one way or the other.

I think what we are doing here is trying to open the door and allow those communities to feel that state government has listened to their concerns and is willing to take a look at their appeal and allow them to present their case. I think that is really important so I would urge that we reject the pending motion and go on to accept the amendment.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: There is a critical fact that I think is being overlooked here. The title of this bill is somewhat of a misnomer. The title indicates, "An Act to Allow Municipalities to Appeal the New State Valuation" — they can already appeal the state valuation. I don't want anybody in this chamber to think that we are denying that right. Currently, any town who feels that there was an error made somewhere along the line in determining their state valuation may appeal. There are 45 days to appeal.

Comments made by John LaFaver in front of our committee indicated that when push comes to shove, we are actually talking probably closer to 60 days than we are 45 days. The reason this bill is here, the reason you have a 9 to 4 Majority Report is simply because of some of the facts that Representative Cashman indicated. If a town appeals beyond the 45 days, that would simply indicate to the other 400 and some odd towns that living within the rules of the game really doesn't make a heck of a lot of difference. It would also mean a difference to those towns who were trying to abide by the rules of the game that the entire formula for revenue sharing or educational subsidy for determining county taxes and what not would have to be reestablished, refigured. The long and short of that is that it would be an administrative nightmare, plus you would also run into the problem of what would be the perception, what kind of message would you be sending to the 400 and some odd towns who are trying to do the right thing and live by the rules of the game. All those matters were considered by the Taxation Committee and we determined there were more problems than what this thing was really worth.

One of the comments made by the good Representative from Waterboro, there were four towns, that is correct. We asked our capable staff how many more towns have indicated an interest to join in this amendment? The answer came back, at least twelve but it could be more than that. So, we are potentially opening up a window of opportunity that would be a terrifically bad precedent. I urge you to accept this 9 to 4 recommendation.

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

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

I would probably direct this to Representative Cashman as chair of the committee. Perhaps he can address this or any other member of that committee. As I see the amendment, it is not prospective in nature, it reopens an appeal process that is lost to certain towns. All towns had the right to appeal under the existing statute or did they? And, by this amendment we are opening it up to other towns that did not appeal properly but otherwise would now meet this criteria by the amendment?

The SPEAKER: Representative Hastings of Fryeburg has posed a question through the Chair to Representative Cashman of Old Town who may respond if he so desires.

The Chair recognizes that Representative.

Representative CASHMAN: Mr. Speaker, Men and Women of the House: First of all in answer to your question, no town in this state has been denied the opportunity to appeal their assessment, ever. They have 45 days in which to do that. The towns that petitioned the legislature through this bill didn't get their appeal in on time.

While I am addressing that aspect of your question, Representative Hastings, I would point out the report that Representative Lord held up and said you couldn't prepare in 45 days, he is probably right, you probably couldn't but you don't have to. All you have to do within the 45 days is notify the board that you want to be heard, you don't have to prepare a report.

The second part of your question addressed itself to how many other towns would be involved. The criteria that is in the amended version of the Minority Report sets up two criteria by which a town would be given this extension, a town or city. I have asked the staff of the Taxation Committee if this report were to pass how many towns would be eligible to take advantage of this extended appeal process and the estimate that he gave me was anywhere from 20 to 60 to 100. Those are his words, he wasn't sure. So, I think we may very well be opening up more than a window, I guess it would be a picture window.

The SPEAKER: The Chair recognizes the Representative from Cherryfield, Representative Farren.

Representative FARREN: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for leaving my material home because I didn't expect this to be coming up today. So, I am going to inform you from recollection.

After having attending the work session where the Taxation Committee addressed this issue — I will preface it with this, I don't profess to be a tax expert and I am sure that there are some on that committee that are and know much more about it than I. However, I did check on Friday, I called Larry Record, asked him if he had received an appeal from the town of Franklin. He informed me he had and he received that appeal on November 7th and the deadline was November 17th. I asked him what his normal practice was once he received an appeal and he told me that within a couple of days he normally sends a copy to the Appeals Board. So, I went to the Appeals Board's secretary and asked her if they had received that appeal from the Bureau of Taxation. She said, no. So, I went over Monday and asked her, are there any minutes — or she said she didn't have any copy there. Larry Record, a little later, brought down a copy of it to her. So, Monday I went over and asked

her if she had found any evidence of them having received it prior to the deadline. She said she had not. I also asked her if they had any minutes where this was brought up by the Bureau of Taxation, namely Larry Record who is the director, and she said we don't have minutes, it is on tape. At that same time, I asked her if she would provide me with that tape so I could review it to see if in fact Larry Record had brought it up to the Appeals Board and what the basis of denial was. Unfortunately, as of right now, she has not called me back stating she had found the record where that was discussed.

I don't know whether it is appropriate or not but if it is, I would respectfully request someone to table this and I will go back tomorrow and see if she has found that tape.

On motion of Representative Marsano of Belfast, tabled pending the motion of Representative Cashman of Old Town that the House accept the Majority "Ought Not to Pass" Report and specially assigned for Wednesday, March 18, 1992.

Ought to Pass as Amended

Representative NADEAU from the Committee on Taxation on Bill "An Act to Impose a Sales Tax on All Items Sold at Flea Markets Except Those Sold by Nonprofit Organizations" (H.P. 1651) (L.D. 2314) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1137)

Report was read and accepted, the bill read once.

Committee Amendment "A" (H-1137) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-1137) and sent up for concurrence.

BILL HELD

Bill "An Act to Clarify the Definition of Certain Vehicles for Insurance Purposes" (H.P. 1644) (L.D. 2307)

- In House, Passed to be Engrossed as amended by Committee Amendment "A" (H-1070) as amended by House Amendment "A" (H-1088) thereto on March 11, 1992.

- In Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-1070) as amended by House Amendment "A" (H-1088) and Senate Amendment "A" (S-623) thereto on March 12, 1992.

- In House, House Receded and Concurred. HELD at the Request of Representative KILKELLY of Wiscasset.

On motion of Representative Kilkelly of Wiscasset, the House reconsidered its action whereby the House receded and concurred.

On further motion of the same Representative, the House voted to recede.

The same Representative offered House Amendment "B" (H-1139) to Committee Amendment "A" (H-1070) and moved its adoption.

House Amendment "B" (H-1139) to Committee Amendment "A" (H-1070) was read by the Clerk and adopted.

Senate Amendment "A" (S-623) to Committee Amendment "A" (H-1070) was read by the Clerk and adopted.

Committee Amendment "A" (H-1070) as amended by House Amendment "A" (H-1088) and House Amendment "B" (H-1139) and Senate Amendment "A" (S-623) thereto were adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-1070) as amended by House Amendment "A" (H-1088) and House Amendment "B" (H-1139) and Senate Amendment "A" (S-623) thereto in non-concurrence and sent up for concurrence.

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

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative JOSEPH from the Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Change the Term of and Method of Choosing the Treasurer of the State of Maine (H.P. 1659) (L.D. 2336) reporting "**Ought Not to Pass**"

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

Unanimous Leave to Withdraw

Representative JOSEPH from the Committee on State and Local Government on Bill "An Act to Create a Somerset County Budget Committee" (H.P. 1702) (L.D. 2382) reporting "**Leave to Withdraw**"

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

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

SENATE PAPERS

Ought to Pass as Amended

Report of the Committee on Labor reporting "**Ought to Pass**" as Amended by Committee Amendment "A" (S-637) on Bill "An Act to Amend the Process for Collecting for Costs of Services of the Maine Labor Relations Board, the Panel of Mediators and the State Board of Arbitration and Conciliation" (EMERGENCY) (S.P. 930) (L.D. 2385)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-637).

Report was read and accepted, the bill read once. Committee Amendment "A" (S-637) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended by Committee Amendment "A" (S-637) in concurrence.

ORDERS

On motion of Representative CHONKO of Topsham, the following Joint Order: (H.P. 1738)

Ordered, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out a bill concerning the distribution of General Purpose Aid for Local Schools for fiscal year 1992-93.

Was read and passed and sent up for concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 819) (L.D. 2018) Bill "An Act Concerning the Freedom of Access Laws as They Relate to Disclosure of Public Employee Personnel Records" Committee on Judiciary reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-635)

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

By unanimous consent, ordered sent forthwith to Engrossing.

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

The Chair laid before the House the following matter: An Act to Allow the Separation of Certain Islands in Casco Bay from the City of Portland (H.P. 1634) (L.D. 2298) (C. "A" H-1095) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Rand of Portland, under suspension of the rules, the House reconsidered its action whereby L.D. 2298 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-1095) was adopted.

The same Representative offered House Amendment "A" (H-1135) to Committee Amendment "A" (H-1095) and moved its adoption.

House Amendment "A" (H-1135) to Committee Amendment "A" (H-1095) was read by the Clerk and

adopted.

Committee Amendment "A" (H-1095) as amended by House Amendment "A" (H-1135) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-1095) as amended by House Amendment "A" (H-1135) thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: An Act to Clarify and Improve the Regulation of Home Food Service Plans (H.P. 1501) (L.D. 2113) (H. "A" H-1006 and H. "B" H-1048 to C. "A" H-987) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

Representative GURNEY: Mr. Speaker, Men and Women of the House: Last year, I cosponsored legislation regarding door-to-door sellers of frozen food. The Business Legislation Committee supported the bill and it eventually became law. The law requires all costs, including separately stated service costs associated with the sale of frozen food by so-called door-to-door sellers to be included in the unit price for each product.

This past September, I and other members of our committee, met with representatives of a home food service plan business which did not have an opportunity to testify or work with us on last year's bill. This business is not involved in the itinerant door-to-door sales of food but instead only appears at the home after calling a prospective customer and making an appointment. We learned that unit prices developed in Massachusetts and other states to allow consumers to compare different sized packages of similar commodities. However, the concept does not apply to associated services costs. It was rapidly apparent to us that the bundling of commodity and service costs into a unit price created enormous difficulty for home food service plan businesses and was also not a benefit to consumers because it confused commodity and service costs.

Testimony from consumers before our committee this year confirmed what we were told. Last year's legislation was unnecessary and unworkable and did not provide the consumer protection that the bill before you now provides. I also learned that no other state has a law on the books like the one we passed last year. In addition, the national conference on weights and measures is proposing to establish uniformed regulations on a national scale which would deal with the very issues we tried to deal with last year.

The businesses which expressed concern to me did not suggest that it should be removed from state regulation but rather believed that Maine's regulation should be made consistent with what is happening on the national level and consistent with laws that are already in place in such states as Wisconsin and New York.

I believe the concerns brought to our attention are legitimate ones. Committee Amendment "A" was unanimously endorsed by the Business Legislation Committee and is language which has already been accepted by all persons who expressed an interest in this matter before the committee.

The purpose of this legislation is to repeal the

requirement that door-to-door sellers of frozen food be required to disclose service costs as well as commodity costs in a single unit price and to replace that requirement with consumer protection that go well beyond the current law. This bill would allow a first-time consumer to cancel a contract with a home food service plan company up to 10 days after signing the contract instead of three days as allowed by existing law. It will also allow the consumer to cancel the initial food order at the time it is actually delivered to the home even if the delivery is more than 10 days after signing the contract. These are real consumer protection provisions that I am proud to sponsor and I ask for your support.

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

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

An Act to Implement the Jobs Creation Bond Package (EMERGENCY) (H.P. 1708) (L.D. 2389) (S. "C" S-595)

TABLED - March 16, 1992 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

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

TABLED AND TODAY ASSIGNED

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

SENATE DIVIDED REPORT - Majority (9) "Ought to Pass" - Minority (4) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act to Implement Constitutional Provisions Restricting the Imposition of Unfunded State Mandates" (S.P. 767) (L.D. 1963)

- In Senate, Majority "Ought to Pass" Report read and accepted and the Bill passed to be engrossed.

TABLED - March 16, 1992 by Representative JOSEPH of Waterville.

PENDING - Acceptance of Either Report.

On motion of Representative Joseph of Waterville, retabled pending acceptance of either report and specially assigned for Wednesday, March 18, 1992.

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

An Act Relating to Legislative Confirmation Hearings" (S.P. 894) (L.D. 2299)

TABLED - March 16, 1992 by Representative PARADIS of Augusta.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and

later today assigned.

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

SENATE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (5) "Ought to Pass" - Committee on State and Local Government on Bill "An Act Regarding County Contingent Account Limits" (S.P. 884) (L.D. 2256)

- In Senate, Minority "Ought to Pass Report read and accepted and the Bill Passed to be Engrossed.

TABLED - March 16, 1992 by Representative COLES of Harpswell.

PENDING - Motion of Representative JOSEPH of Waterville to accept the Majority "Ought Not to Pass" Report.

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

Representative COLES: Mr. Speaker, Men and Women of the House: You may recall that we were debating this item last night and the Representative from Lewiston suggested that we might consider an amendment limiting it to Sagadahoc County alone. The Sagadahoc County Delegation has accepted that suggestion. It is on your desk with a filing number of H-1133.

The reason that I rise is that in order to have something to amend, we need to have a bill to get into second reading. Therefore, I would request as a courtesy that you all allow the Minority "Ought to Pass" Report to be accepted so we can get to second reading and I will immediately offer this amendment which will limit this bill to affect Sagadahoc County only.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House: This bill, L.D. 2256, went through a lot of debate yesterday. I would just like to bring out a few points. The issue that arose during the work session was that some people felt that \$50,000 in a contingency account was not enough. I have always felt that, in good planning and developing a budget, it is well enough.

What this bill will do (as written) is to increase the contingency account to \$100,000. Under the state statute now, there are several areas where one can transfer funds when there was insufficient appropriations to begin with. Number two, they can rely on the contingency account to dip into. When that fails, you are allowed to have a two percent overlay and that two percent overlay is based on the total budget. An example, in York County we have a budget that exceeds \$5 million, a two percent overlay would be \$100,000. In Portland, I believe the county budget is \$10 million and that two percent overlay would be \$200,000. So, for those communities that cannot live within their budget or that some unusual circumstances should arise, there is money and ways to work out those crises at that particular time.

In another example, should you be running short of cash towards the end of the year, you can always get a bridge loan. So, within the statutes as they are written today, I think there are plenty of safety nets and I would urge you to support the Majority

Report which is "Ought Not to Pass" and not look at any exceptions or to allow a particular county to have a contingency account of \$100,000. At this particular time, I think it is the wrong message and it is not the prudent thing to do.

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

A vote of the House was taken.

Representative Kerr of Old Orchard Beach 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 Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Men and Women of the House: Again, I would just like to reemphasize that the Sagadahoc County Delegation is not asking for, looking forward to, or requesting approval of the bill as written or as it was reported out of the committee. We are simply asking your consideration and your courtesy to allow us to have a vehicle to amend it so we can take care of Sagadahoc County's wishes without interfering with any other county's situation.

Again, I would appreciate your courtesy and rejecting the pending motion to allow us to accept the Minority Report and then allowing us to amend it immediately.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House: I don't have a problem with being courteous but I have a problem with being frugal. If we make this exception to Sagadahoc County this year, who will it be next year? There are provisions in the statute that presently allow for a contingency account of \$50,000 for you to transfer funds when you need money and also a two percent overlay. That is there now. They don't need more money to spend and raise property taxes. That is what will happen. Contingency accounts are only supposed to be used in an emergency, okay? There are no great crises that creep up here where they don't have enough money. There are other alternatives. They are in the statute now. Let's not make exceptions to this rule.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I gain nothing whether this bill passes or loses but I do recognize that Sagadahoc County does have a unique situation. They are the only county in this state that does not have a county jail, the results is their cost of transporting prisoners back and forth are considerably higher than any other county. It seems to me a reasonable thing to allow them to be treated differently from the other counties and have a higher

contingency account in order to deal with their special problems on account of not having a county jail.

Representative Kerr of Old Orchard Beach was granted permission to address the House a third time.

Representative KERR: Mr. Speaker, Men and Women of the House: The example that was just given, the Sagadahoc County Jail — in the budget planning process, if more money is needed, appropriate it. That is all you have to do. It is not that complicated. It is a line item, you increase that amount. If you don't spend it, return it or carry it over. There is no need to raise the contingency account, there are provisions where if you need more money, they are in the statute now. I would urge you to vote against the pending motion.

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

Representative HEESCHEN: Mr. Speaker, Members of the House: No one has ever accused me of being a big promoter or defender of county government but I firmly believe that if we are going to have county government, we should give county government the tools it needs to do the job. I question the kind of second guessing that we are doing of our local elected officials. If we really believe in home rule and so forth, do we let home rule occur or do we look over the shoulders of our elected officials?

I would urge the defeat of the "Ought Not to Pass" Report so that Representative Coles may go ahead with his amendment and allow Sagadahoc County at this time to have an exception to the \$50,000 cap which, frankly, I think is outmoded.

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

Representative JALBERT: Mr. Speaker, Men and Women of the House: We have gone over the county budgets and in the many years that I have served on the local level, we went through a lot of budgets. Nobody can tell me that there is a single county budget that comes through here that isn't padded already.

I agree with the good gentlemen from Old Orchard, it seems that every time something goes wrong, at least in my county of Androskoggin, they come in and cry and cry to the point that I was almost in tears to see them suffering. But, the next year they had a \$150,000 surplus.

They believe in what came out of Washington, this so-called creative financing, they are doing it, they are using it to the hilt.

I am glad that the good Representative from Old Orchard Beach brought up the question of overlay. When I was an assessor in Lisbon, what a job we had on the overlay. We had one fellow who wanted to put ten percent one year. The overlay was intended for one thing and one thing only — for mathematical reasons in case you couldn't round off your figures, strictly that was what it was.

The contingent account — we had town managers in my hometown who invented contingency account. So, I say now let's not open the door because they are out there with the foot — reminds me of siding salesmen, get inside the door, then you can do what you want. I have been fighting the county budgets for eight years and I will keep fighting as long as I am here. I say, go along with the motion that is on the floor now.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: The policy of the State and Local Government Committee has been to listen to the legislative delegation of the individual counties and listen to the county commissioners if they did agree with the legislative delegation. Representative George Kerr is absolutely correct in his analysis of how to develop a county budget responsibly, but in this case, if Sagadahoc County is currently asking this body for permission to increase its contingency account, then I believe that we should do that. What is good for Sagadahoc County is not good for Kennebec County or for the other 15 counties. However, upon their request, I would be willing to forego the Majority "Ought Not to Pass" Report and accept the Minority Report so that Sagadahoc County could increase their contingency account.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of the Representative from Waterville, Representative Joseph, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 353

YEA - Aliberti, Anderson, Bailey, H.; Bailey, R.; Boutilier, Cahill, M.; Clark, H.; DiPietro, Duplessis, Dutremble, L.; Farnum, Farren, Heino, Hussey, Jalbert, Kerr, Kutasi, Lawrence, Libby, Look, MacBride, Macomber, Martin, H.; McHenry, Melendy, Merrill, Murphy, Nash, Nutting, O'Dea, Paradis, J.; Paradis, P.; Plourde, Pouliot, Reed, W.; Ricker, Salisbury, Savage, Sheltra, Simpson, Spear, Tamaro, Tardy, Tracy, Tupper, Waterman.

NAY - Adams, Aikman, Anthony, Ault, Bell, Butland, Carleton, Cashman, Chonko, Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Donnelly, Duffy, Erwin, Farnsworth, Foss, Garland, Goodridge, Gould, R. A.; Graham, Gray, Greenlaw, Gurney, Gwadosky, Hale, Handy, Hanley, Hastings, Heesch, Hepburn, Hichens, Hogle, Holt, Jacques, Joseph, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lebowitz, Lipman, Lord, Luther, Mahany, Manning, Marsano, McKeen, Michaud, Mitchell, E.; Mitchell, J.; Nadeau, Norton, Ott, Paul, Pendexter, Pendleton, Pines, Powers, Rand, Reed, G.; Richards, Rotondi, Rydell, Saint Onge, Simonds, Skoglund, Small, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Townsend, Treat, Wentworth.

ABSENT - Barth, Bennett, Bowers, Carroll, D.; Carroll, J.; Cathcart, Dore, Gean, Hichborn, Lemke, Marsh, Mayo, Michael, Morrison, O'Gara, Oliver, Parent, Pfeiffer, Pineau, Poulin, Richardson, Ruhlin, Vigue, Whitcomb, The Speaker.

Yes, 46; No, 80; Absent, 25; Paired, 0; Excused, 0.

46 having voted in the affirmative and 80 in the negative with 25 absent, the motion did not prevail.

Subsequently, the Minority "Ought to Pass" Report was accepted and the Bill read once.

Under suspensions of the rules, the bill was read the second time.

Representative Coles of Harpswell offered House Amendment "A" (H-1133) and moved its adoption.

House Amendment "A" (H-1133) was read by the Clerk and adopted.

The bill was passed to be engrossed as amended by House Amendment "A" (H-1133) in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: An Act to Provide a Private Remedy for Violation of the Lead Poisoning Control Act (H.P. 1515) (L.D. 2127) (C. "A" H-1066) which was tabled earlier in the day and later today assigned pending passage to be enacted.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendexter.

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: This bill makes a violation of the Lead Poisoning Control Act, a violation of the Maine Unfair Trade Practice Act. This bill did not originate in the Department of Agriculture as was stated in previous debate but it originated in the Attorney General's Office. This, in my mind, makes it a lawyers bill.

This new wave of focus on lead poisoning is not coming from the pediatric community, it is not coming from the health care providers, it is not coming from the Children's Advocate but rather it is a national movement from the legal community to file class action suits against the paint industry. Now the move is here in Maine.

I see no problem with the way things are presently, namely the State of Maine may levy fines and punishment against violators of the Lead Poisoning Control Act. This lead poisoning issue is the next asbestos.

Mr. Speaker, I move that this bill and all its accompanying papers be indefinitely postponed.

I would 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 pending question before the House is the motion of the Representative from Scarborough, Representative Pendexter, that L.D. 2127 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 354

YEA - Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Butland, Carleton, DiPietro, Donnelly, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Heino, Hepburn, Hichens, Kutasi, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Martin, H.; Merrill, Murphy, Nash, Norton, Nutting, Ott, Pendexter, Pendleton, Pines, Plourde, Reed, G.; Reed, W.; Salisbury, Savage, Sheltra, Skoglund, Small, Stevens, A.; Stevenson, Tammaro, Tardy, Tupper, Waterman.

NAY - Adams, Anthony, Bell, Boutilier, Cahill, M.; Cashman, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Dore, Duffy, Erwin, Farnsworth, Goodridge, Gould, R. A.; Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hoglund, Holt, Hussey, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lawrence,

Lipman, Luther, Macomber, Mahany, Manning, McHenry, McKeen, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Nadeau, O'Dea, Paradis, J.; Paradis, P.; Paul, Pouliot, Powers, Rand, Richards, Ricker, Rotondi, Rydell, Saint Onge, Simonds, Simpson, Stevens, P.; Strout, Swazey, Townsend, Tracy, Treat, Wentworth, The Speaker.

ABSENT - Barth, Bennett, Bowers, Carroll, D.; Carroll, J.; Cathcart, Gean, Gray, Hichborn, Jacques, Lemke, Marsh, Mayo, Michael, Morrison, O'Gara, Oliver, Parent, Pfeiffer, Pineau, Poulin, Richardson, Ruhlin, Spear, Vigue, Whitcomb.

Yes, 53; No, 72; Absent, 26; Paired, 0; Excused, 0.

53 having voted in the affirmative and 72 in the negative with 26 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 following item appearing on Supplement No. 11 was taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative LAWRENCE from the Committee on Legal Affairs on Bill "An Act to Repeal Increases in Concealed Weapons Permit Fees and to Increase the Fees Related to Arbitrations under the Lemon Law" (EMERGENCY) (H.P. 1601) (L.D. 2263) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1138)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-1138) was read by the Clerk.

On motion of Representative Gwadosky of Fairfield, tabled pending adoption of Committee Amendment "A" (H-1138) and specially assigned for Wednesday, March 18, 1992.

The Chair laid before the House the following matter: Bill "An Act to Reform the Workers' Compensation System" (H.P. 1735) (L.D. 2423) (Governor's Bill) which was tabled earlier in the day and later today assigned pending reference.

Subsequently, was referred to the Committee on Banking and Insurance, ordered printed and sent up for concurrence.

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

On motion of Representative Gould of Greenville, Adjourned at 6:52 p.m. until Wednesday, March 18, 1992, at ten o'clock in the morning.