

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Sixteenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME I**

**FIRST REGULAR SESSION**

**House of Representatives**  
December 2, 1992 to May 13, 1993

ONE HUNDRED AND SIXTEENTH MAINE LEGISLATURE  
FIRST REGULAR SESSION  
37th Legislative Day  
Thursday, April 8, 1993

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

Prayer by Rabbi John R. Samuels, Congregation Beth Abraham, Auburn.

The Journal of Tuesday, April 6, 1993, was read and approved.

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**SENATE PAPER**

Bill "An Act to Modify Joint and Several Liability in Medical Malpractice Actions" (S.P. 391) (L.D. 1186)

Came from the Senate, referred to the Committee on Judiciary and Ordered Printed.

Was referred to the Committee on Judiciary in concurrence.

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**PETITIONS, BILLS AND RESOLVES  
REQUIRING REFERENCE**

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

**Agriculture**

Bill "An Act to Require that Dogs Be Leashed" (H.P. 895) (L.D. 1210) (Presented by Representative NORTON of Winthrop) (Cosponsored by Representative: HEINO of Boothbay)

Ordered Printed.  
Sent up for Concurrence.

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**Appropriations and Financial Affairs**

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 for Landfill Closure and Remediation and to Provide Grants to Municipalities for the Purchase of Recycling Equipment" (H.P. 908) (L.D. 1223) (Presented by Representative KILKELLY of Wiscasset) (Cosponsored by Representatives: AHEARNE of Madawaska, BOWERS of Washington, GOULD of Greenville, HOGLUND of Portland, POULIN of Oakland, Senator: PARADIS of Aroostook)

Ordered Printed.  
Sent up for Concurrence.

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**Banking and Insurance**

Bill "An Act to Provide More Affordable Health Insurance and Community Rating for Individuals" (H.P.

892) (L.D. 1206) (Presented by Representative MITCHELL of Vassalboro) (Cosponsored by Representatives: DONNELLY of Presque Isle, ERWIN of Rumford, GWADOSKY of Fairfield, JOSEPH of Waterville, LORD of Waterboro, MARSH of West Gardiner, Senator: CONLEY of Cumberland)

Ordered Printed.  
Sent up for Concurrence.

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**Energy and Natural Resources**

Bill "An Act to Amend the Laws Concerning Dam Registration Fees" (H.P. 902) (L.D. 1217) (Presented by Representative NORTON of Winthrop) (Cosponsored by Representative: BARTH of Bethel)

Bill "An Act Related to Unavoidable Equipment Malfunctions" (H.P. 903) (L.D. 1218) (Presented by Representative LORD of Waterboro) (Cosponsored by Representatives: ANDERSON of Woodland, CLARK of Millinocket, CONSTANTINE of Bar Harbor, GOULD of Greenville, HEINO of Boothbay, HUSSEY of Milo, JACQUES of Waterville, MORRISON of Bangor, POULIN of Oakland, Senator: CIANCHETTE of Somerset)

Ordered Printed.  
Sent up for Concurrence.

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**Fisheries and Wildlife**

Bill "An Act Concerning Habitual Offenders under the Fish and Wildlife Laws" (H.P. 896) (L.D. 1211) (Presented by Representative MARSH of West Gardiner) (Cosponsored by Representative JACQUES of Waterville, Senator SUMMERS of Cumberland)

Ordered Printed.  
Sent up for Concurrence.

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**Human Resources**

Bill "An Act to Amend the Laws Regarding Home Baby-sitting Services and to Provide Rules for Licensing Fees for Day Care Facilities, Nursery Schools and Home Baby-sitting Services" (H.P. 890) (L.D. 1204) (Presented by Representative LIPMAN of Augusta) (Cosponsored by Representative: FARNSWORTH of Hallowell, Senators: BERUBE of Androscoggin, HANLEY of Oxford) (Submitted by the Department of Human Services pursuant to Joint Rule 24.)

Bill "An Act Concerning Certain Counseling Services" (H.P. 906) (L.D. 1221) (Presented by Representative GEAN of Alfred)

Resolve, to Establish the Commission to Examine Alternatives to Maine's Welfare System and to Make Recommendations Concerning Its Replacement (EMERGENCY) (H.P. 891) (L.D. 1205) (Presented by Representative SIMONDS of Cape Elizabeth) (Cosponsored by Representative TREAT of Gardiner, Senator PARADIS of Aroostook and Representatives: NORTON of Winthrop, PENDLETON of Scarborough,

Senators: AMERO of Cumberland, BRANNIGAN of Cumberland, HARRIMAN of Cumberland)

Ordered Printed.  
Sent up for Concurrence.

Labor

Bill "An Act Concerning Unemployment Benefits for Certain School Employees" (H.P. 886) (L.D. 1200) (Presented by Representative OLIVER of Portland) (Cosponsored by Senator: BUSTIN of Kennebec)

Bill "An Act Regarding Veterans' Disabilities under the Workers' Compensation System" (H.P. 894) (L.D. 1209) (Presented by Representative ERWIN of Rumford) (Cosponsored by Representative: PINEAU of Jay, Senator: LUTHER of Oxford)

Ordered Printed.  
Sent up for Concurrence.

Legal Affairs

Bill "An Act to Amend the Laws Governing Elections and Nominations by Political Parties" (H.P. 884) (L.D. 1198) (Presented by Representative ROWE of Portland) (Cosponsored by Representatives: BENNETT of Norway, BOWERS of Washington, LEMKE of Westbrook, YOUNG of Limestone)

Bill "An Act to Treat Minors Equitably under the Operating-under-the-influence Laws" (H.P. 887) (L.D. 1201) (Presented by Representative CARR of Sanford)

Bill "An Act Concerning the Tallying and Challenging of Absentee Votes" (H.P. 888) (L.D. 1202) (Presented by Representative LIPMAN of Augusta)

Bill "An Act to Regulate the Use of Aircraft for Surveillance Purposes by Law Enforcement Agencies" (H.P. 889) (L.D. 1203) (Presented by Representative TOWNSEND of Eastport) (Cosponsored by Representatives: DRISCOLL of Calais, GOULD of Greenville, PARADIS of Augusta, SKOGLUND of St. George)

Bill "An Act Concerning Limits on Security Deposits" (H.P. 898) (L.D. 1213) (Presented by Representative STEVENS of Orono) (Cosponsored by Representatives: ADAMS of Portland, BOWERS of Washington, CATHCART of Orono, OLIVER of Portland, TREAT of Gardiner, Senators: CONLEY of Cumberland, O'DEA of Penobscot)

Bill "An Act Concerning Repairs Performed by Rental Tenants" (H.P. 900) (L.D. 1215) (Presented by Representative STEVENS of Orono) (Cosponsored by Senator O'DEA of Penobscot and Representatives: ADAMS of Portland, BOWERS of Washington, CATHCART of Orono, TREAT of Gardiner, Senators: CONLEY of Cumberland, HANDY of Androscoggin)

Bill "An Act Requiring Interest Earned on Security Deposits to Be Returned to Tenants" (H.P. 905) (L.D. 1220) (Presented by Representative STEVENS

of Orono) (Cosponsored by Representatives: ADAMS of Portland, CATHCART of Orono, OLIVER of Portland, SAXL of Bangor, TREAT of Gardiner, Senator: CONLEY of Cumberland)

Bill "An Act Concerning the Location and Licensure of Agency Liquor Stores" (EMERGENCY) (H.P. 909) (L.D. 1224) (Presented by Representative KERR of Old Orchard Beach) (Cosponsored by Representative: DiPIETRO of South Portland, Senator: HARRIMAN of Cumberland)

Ordered Printed.  
Sent up for Concurrence.

Marine Resources

Bill "An Act to Provide Fair and Equitable Access to Marine Shellfish" (H.P. 904) (L.D. 1219) (Presented by Representative KILKELLY of Wiscasset) (Cosponsored by Representatives: CHASE of China, MITCHELL of Vassalboro)

Ordered Printed.  
Sent up for Concurrence.

State and Local Government

Bill "An Act to Require the Bureau of the Budget to Monitor Federal Legislation to Determine the Cost of Implementing Legislation at Local and State Levels" (H.P. 897) (L.D. 1212) (Presented by Representative KILKELLY of Wiscasset) (Cosponsored by Representatives: AHEARNE of Madawaska, BENNETT of Norway, BOWERS of Washington, GOULD of Greenville, GRAY of Sedgwick, LIBBY of Buxton, POULIN of Oakland, TRACY of Rome, YOUNG of Limestone, Senators: HARRIMAN of Cumberland, PARADIS of Aroostook)

Bill "An Act to Share Proportionately the Public Safety Costs for the Capitol Area" (H.P. 899) (L.D. 1214) (Presented by Representative DAGGETT of Augusta) (Cosponsored by Senator BUSTIN of Kennebec and Representatives: LIPMAN of Augusta, O'GARA of Westbrook, PARADIS of Augusta)

Ordered Printed.  
Sent up for Concurrence.

Taxation

Bill "An Act to Redefine Nonprofit Status in the Sales and Use Tax Law" (H.P. 885) (L.D. 1199) (Presented by Representative PLOURDE of Biddeford) (Cosponsored by Representatives: BRUNO of Raymond, CAMERON of Rumford, NADEAU of Saco, VIGUE of Winslow, Senator: BALDACCI of Penobscot)

Bill "An Act to Allow Municipalities to Abate or Defer Property Tax Assessments for the Purpose of Attracting or Retaining Industry or Business" (H.P. 893) (L.D. 1208) (Presented by Representative ZIRNKILTON of Mount Desert)

Bill "An Act to Amend the Maine Tree Growth Tax Law" (H.P. 907) (L.D. 1222) (Presented by Representative SPEAR of Nobleboro) (Cosponsored by Representatives: BAILEY of Township 27, BARTH of Bethel, CROSS of Dover-Foxcroft, STROUT of Corinth, Senator: BEGLEY of Lincoln)

Ordered Printed.  
Sent up for Concurrence.

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**Transportation**

Resolve, to Name the So-called "Covered Bridge", No. 2189, Spanning the Aroostook River, in Presque Isle on Route 1, the Harold N. Flagg Memorial Bridge (H.P. 901) (L.D. 1216) (Presented by Representative MacBRIDE of Presque Isle) (Cosponsored by Representatives: AHEARNE of Madawaska, ANDERSON of Woodland, CLUKEY of Houlton, DONNELLY of Presque Isle, JOY of Island Falls, KNEELAND of Easton, MARTIN of Van Buren, MARTIN of Eagle Lake, MICHAUD of East Millinocket, PINETTE of Fort Kent, ROBICHAUD of Caribou, YOUNG of Limestone, Senators: KIEFFER of Aroostook, LUDWIG of Aroostook, PARADIS of Aroostook)

Ordered Printed.  
Sent up for Concurrence.

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

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

**SENATE PAPERS**

Bill "An Act to Define the Liability of Gas Utilities and Natural Gas Pipeline Utilities" (S.P. 396) (L.D. 1227)

Came from the Senate, referred to the Committee on **Judiciary** and Ordered Printed.

Was referred to the Committee on **Judiciary** in concurrence.

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Bill "An Act to Improve Standards for Video Display Terminal Operators" (S.P. 393) (L.D. 1207)

Came from the Senate, referred to the Committee on **Labor** and Ordered Printed.

Was referred to the Committee on **Labor** in concurrence.

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Bill "An Act to Promote Enforcement of Laws Pertaining to Alcohol Use by Minors" (S.P. 395) (L.D. 1226)

Came from the Senate, referred to the Committee on **Legal Affairs** and Ordered Printed.

Was referred to the Committee on **Legal Affairs** in concurrence.

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

**SENATE PAPERS**

Bill "An Act to Increase Fees Charged by Municipal Clerks for Services" (S.P. 398) (L.D. 1229)

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

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

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Bill "An Act to Clarify the Farm and Open Space Tax Law" (EMERGENCY) (S.P. 399) (L.D. 1230)

Came from the Senate, referred to the Committee on **Taxation** and Ordered Printed.

Was referred to the Committee on **Taxation** in concurrence.

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Bill "An Act to Allow Public Access to Information Concerning Expenditures of Highway Funds for Acquisition of Private Property" (S.P. 394) (L.D. 1225)

Bill "An Act to Ensure Access to Land Located on Discontinued Roads" (S.P. 397) (L.D. 1228)

Came from the Senate, referred to the Committee on **Transportation** and Ordered Printed.

Were referred to the Committee on **Transportation** in concurrence.

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**ORDERS**

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

ORDERED, that Representative David J. Cashman of Old Town be excused April 6 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Carol A. Kontos of Windham be excused April 1 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Leslie Kutasi, Jr., of Bridgton be excused April 1 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Hilda C. Martin of Van Buren be excused March 24 and 25 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Richard P. Ruhlin of Brewer be excused April 5 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Jane W. Saxl of Bangor be excused April 5 and 6 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Richard N. Simoneau of Thomaston be excused April 1 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Ellen Walker of Blue Hill be excused April 5 for personal reasons.

Was read and passed.

Representative Gwadosky of Fairfield was granted unanimous consent to address the House:

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: It is with sincere and genuine pleasure that I take a moment to recognize in the balcony, Coach Bruce Cooper, Assistant Coaches, Lars Jonassen, Larry Dean, the managers and the entire Lawrence High School girls basketball team. They have earned the distinction of being the State Class A Champions, a title that they have defended successfully for the past three years, accumulating a record during those past three seasons of 63 and 3. They are very talented, bright and shy from time to time when it comes to public speaking.

Interestingly enough, before 1990 in modern history, there wasn't a girls basketball team at Lawrence High School that had even won a tournament game, needless to say, win a state title. You have to go back to the girls basketball team of 1938-39 before you find a team at Lawrence, a girls basketball team that actually won the title back in those years. My mother was a manager of the 1938-39 team. They were coached by a gentleman in 1938-39 whose name was Irvin Jonassen and his grandson, Lars Jonassen, is now the assistant coach of the Lawrence team and his daughter Kelly is also a member of the Lawrence team for this particular year.

Once again, that was at a time when basketball was (in 1938-39) an entirely different sport than it is today. I am not suggesting that the pace was slow but I have been told that when they reviewed their game films, they used to pass around a view-master to each of the players and kind of watched their game films at that time. It is entirely different, dramatically different, in terms of the pace of basketball.

For 50 years in our community, basketball was gauged by the 1938-39 team and for years and years people talked about that particular team. We have a new dynasty now within our community and these young women in the balcony are part of that particular dynasty. They are as motivated off the court as they are on the court. They have individually achieved tremendously in the areas of scholastics and they are involved in extra-curricular activities throughout their community. They have become tremendous role models, not only for their peers, but for a whole new generation of grade school children, children like my

own six-year old daughter who has now encouraged her Dad to lower the basket to eight feet so she can begin to learn how to play basketball like the Lawrence High School girls play basketball.

They are superbly coached by Coach Bruce Cooper who has instilled in them the importance of playing as a team, a gentleman who has instilled in them the importance of sacrificing as a team, a person who has continually driven them to seek excellence, who has continually taught them to be leaders on and off the court and a gentleman who by his own leadership has instilled in them values that will carry them, not only throughout their high school career, but beyond.

Later on today, we will be presenting them with a framed sentiment of legislative expression on behalf of the entire House and Senate recognizing their efforts. It is a sentiment that I was delighted and privileged to cosponsor along with Representative Chase, Representative Clement, Representative Ault, Senator Marden and Senator Baldacci. For those of you who are wondering how Senator Baldacci got on a joint sentiment for Lawrence High School, I need to let you know that, for the past three years, for some nine or eleven tournament games, Lawrence High School team has always gone to Baldacci's Restaurant before their tournament game. Though I have tried to convince them of the many benefits of polish sausage and Lithuanian alternatives, Representative DiPietro will be happy to know that they have stuck with Italian cuisine and it has been a remarkable success for them and they have continued that tradition, even today.

These young women are the types of girls that most of us as parents hope that our daughters will turn out to be. I would suggest that that is precisely the reason why our communities have kind of adopted this team as their own extended family.

I hope you will join with me in recognizing their tremendous accomplishment, having won three consecutive state championships and welcome them here today as our guests in the State House.

Representative O'Gara of Westbrook was granted unanimous consent to address the House:

Representative O'GARA: Mr. Speaker, Men and Women of the House: While I do want to go on Record that we in Westbrook are very, very proud of our girls team and their successes, especially of the terrific run they made at this great girls team in the last period in the state championship game, I do want to, on behalf of Westbrook, congratulate the girls and their coaches and wish them well.

I am sure they must be aware, as I am and many of you are, that Westbrook High School had a similar incredible streak of four straight championship games. We are going to be doing our very best next year when we expect we will be meeting you in the finals to preserve that terrific record. Our congratulations to you all.

## REPORTS OF COMMITTEES

### Ought to Pass as Amended

Representative AHEARNE from the Committee on

**Agriculture** on Bill "An Act to Protect Animal Enterprises" (H.P. 163) (L.D. 215) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-119)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-119) was read by the Clerk and adopted and the bill assigned for second reading Monday, April 12, 1993.

**Ought to Pass as Amended**

Representative PINEAU from the Committee on **Banking and Insurance** on Bill "An Act to Prohibit the Transfer of Credit Card Information" (H.P. 246) (L.D. 325) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-125)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-125) was read by the Clerk and adopted and the bill assigned for second reading Monday, April 12, 1993.

**Ought to Pass as Amended**

Representative MITCHELL from the Committee on **Marine Resources** on Bill "An Act to Establish a Consistent Expiration Date for Shellfish Licenses and Marine Worm Digger's Licenses" (H.P. 45) (L.D. 61) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-132)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-132) was read by the Clerk and adopted and the bill assigned for second reading Monday, April 12, 1993.

**Divided Report**

Majority Report of the Committee on **State and Local Government** reporting "Ought Not to Pass" on Bill "An Act to Require Legislative Confirmation of the Director of the Maine Drug Enforcement Agency" (H.P. 358) (L.D. 461)

Signed:

Senators: ESTY of Cumberland  
BERUBE of Androscoggin  
BUTLAND of Cumberland

Representatives: WALKER of Blue Hill  
LOOK of Jonesboro  
YOUNG of Limestone  
ROWE of Portland  
BENNETT of Norway  
KILKELLY of Wiscasset

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-110) on same Bill.

Signed:

Representatives: JOSEPH of Waterville  
AHEARNE of Madawaska  
DUTREMBLE of Biddeford  
GRAY of Sedgwick

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph. Representative JOSEPH: Mr. Speaker, Men and Women of the House: I move that the House accept the Minority "Ought to Pass" Report.

This particular piece of legislation provides and recommends that the Director of the Maine Drug Enforcement Agency be confirmed by the Joint Standing Committee of State and Local Government. It provides for the removal of that director by impeachment or by the Governor. The debate within the committee seemed to be about whether or not or why should this person be confirmed.

As this bill was presented to us, we heard testimony that last session two joint standing committees, the Joint Standing Committee on Audit and Program Review and the Joint Standing Committee recommended that confirmation of the Director of the Maine Drug Enforcement Agency be confirmed. This is consistent with the way the Chief of the Maine State Police is confirmed. The debate seemed to be that there was some intention to deal with the current director of the Maine Drug Enforcement Agency and that is not true.

This bill is prospective and because the Director of the Maine Drug Enforcement Agency, formerly called BIDE, supervises law enforcement officers from the county level, state police, and municipalities who are on loan, so to speak, to the Maine Drug Enforcement Agency, we feel by that fact alone that this person who is conducting, supervising and implementing drug enforcement in this state, should be confirmed by the legislature. It is the feeling of the Minority of the State and Local Government Committee that in fact this will be the area of accountability, accountability as to who would serve in that position. I often asked during the public hearing, as was asked last year, why not? Why would anybody shy away from, why would anybody be opposed to confirmation by a Joint Standing Committee of the Maine Legislature? I would encourage this body to support this simple but very important measure of confirmation of the Director of the Maine Drug Enforcement Agency.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: As Representative Joseph just said, this bill is about accountability. It is accountability legislation, the accountability of a law enforcement agency in a democratic society.

One of the committees that studied this issue at length, exhaustive length, during the last session was the Audit and Program Review Committee, which investigated BIDE, now MDEA. A series of reforms were recommended to improve the management and operation of that agency that were hammered out by the committee. There was compromise, but the final report was a unanimous report of that committee, all Republicans and Democrats. One of those recommendations was for the legislative confirmation of the Director of BIDE. This was removed from the Audit bill when it reached the floor at the end of

the last session because the Governor threatened a veto.

A veto would have included the entire Audit bill which included a number of departments, agencies and independent commissions, a number of which would have been automatically sunsetted. To preclude this, and only for this reason, the confirmation section was withdrawn with the understanding, at least on the committee, that it would be presented separately in the next session, which is what is happening now.

I must also say, on the Record, that the subsequent six month compliance report from BIDE, now MDEA, and a six month compliance report in itself is unusual but reflects the great concern with the agency's management and practice. That report was less than satisfactory. There is a continuing concern that BIDE/MDEA did not necessarily get the clear and compelling message of the last session.

Ladies and gentlemen of the House, in a democratic society, the line between what constitutes the proper use of police power to protect the citizenry and the abuse of that power which threatens citizens' rights, is often a very thin line but it is also a crucially important one in our type of government.

Some statements have been made in the press which I will not read into the Record that this legislation somehow is politically motivated. I would only say to that, that the day I put in a bill which tries to undermine proper law enforcement, I should be ashamed of myself as the son-in-law of a legendary trooper who spent 50 years working for the State of Maine and the State Police, let alone my wife who wrote Downeast Detective. So, I will not do that type of thing nor do I intend it.

To restore public confidence in law enforcement is my major concern and strict accountability is necessary to restore that confidence.

Therefore, I ask you to support the "Ought to Pass" motion.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Bennett.

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: Representative Joseph asks, why not confirm the occupant of this important position by the legislature? I would ask you, why should we, when we don't confirm other heads of various bureaus and offices within state government such as the State Budget Officer, the Director of the Bureau of Medical Services, the State Tax Assessor, Chief Medical Examiner, the Director of the Bureau of Public Lands and the State Prison Warden? In fact, we only confirm four below commissioner level positions in state government.

I think the essential question we have to ask therefore is, when is legislative confirmation appropriate? I believe that it is appropriate for people in state government who have broad policy-making authority, who supervise large programs, who administer a significant budget or have other accountability duties due the legislative bodies such as the submission of a budget or have rulemaking authority or adjudicatory functions.

The Director of the MDEA has none of these executive powers. We should ask, why do we single this office out for confirmation? As I said, there are only four positions, four positions in all of state government below the commissioner level that have legislative confirmation. Only one of those is a law enforcement officer, that is the Chief of State

Police. The head of the State Police has an independent function, he has accountability through a process that doesn't follow the usual chain of authority back through the commissioner. He does not serve at the pleasure of the commissioner. The Chief of the State Police is very unique — it was set up during the restructuring under Ken Curtis's regime that occurred to have the confirmation by the legislature and then have that independent status.

The head of the MDEA serves at the pleasure of the Commissioner of Public Safety, so I would say that it is odd, to say the least, that we should reach down into the functionary parts of state bureaucracy to pick on this one position to ask for legislative confirmation. It doesn't make sense to me, that is why I supported the "Ought Not to Pass" Report. I encourage you to do the same. I encourage you to vote against the pending motion and accept the Majority Report of the Committee.

I ask for a division.

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

Representative YOUNG: Mr. Speaker, Ladies and Gentlemen of the House: When I first got my seat down here, somebody said what an awful place to sit. I thought it was because of the gentleman on my left who I was sitting next to but now I realize it is because I can't see anybody I am talking to. Be that as it may, I stand today to ask that you vote against the Minority "Ought to Pass" Report.

A majority of us on the State and Local Government Committee did not find the testimony that was presented convincing, that there was a significant difference between this position and other division level law enforcement positions, for example, the Chief of the Maine Warden Service, the Marine Patrol, the State Fire Marshal, the Director of the Bureau of Liquor Enforcement, Chief of Capitol Security and the Director of the Maine Forest Service. None of these positions are subject to legislative appointment, only the Chief of the State Police. The reason the Chief of the State Police is subject to legislative appointment is that he serves in the absence of the Commissioner as the Commissioner of Public Safety. He also has a continuous term which goes on from one administration to the next. Based on those considerations, a majority of us on this committee felt that this legislation ought not to pass so I would ask that you defeat the Minority "Ought to Pass" motion.

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

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I want to apologize first to the committee for not being able to testify in support of this bill when it was up, I happened to have another commitment and wasn't able to testify.

I rise before you today as a member of the 116th Legislature, and, in my prior life, I was a drug enforcement agent and worked nine years for the Maine Drug Enforcement Agency before it became BIDE. During those nine years, that agency came under the umbrella of the Maine State Police. I want you to know that those nine years and the success of that agency for those nine years were the facts that they used to develop the superagency. I feel that in developing this superagency we made a big mistake by not making that person accountable to the people of the State of Maine. A major portion of the funds



that go to that agency are federal funds that could be used by all police law enforcement agencies throughout the state. They have given up their right to those funds in order to be able to fund this agency. Two years ago when we had a bill dealing with BIDE, a major portion of those people were here to testify of their dissatisfaction with the operation of BIDE at that time.

Legislative confirmation was in the bill, was taken out as you heard, so that the bill wouldn't be vetoed. I am a strong advocate that the people, at least in law enforcement agencies, have some accountability, hold some accountability, over that agency.

Since 1986, I have watched BIDE go down hill consistently. Last year, we passed a law that partially corrected some of the political problems inside of BIDE and the Commissioner of Public Safety refused to recognize the problems in the leadership of BIDE and it has consistently gone down hill since two years ago.

It doesn't look like we are going to be able to change anything for two more years until the Commissioner changes.

I would ask your support of this Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Bowers.

Representative BOWERS: Mr. Speaker, Men and Women of the House: With all due respect to the good Representative from Norway, the Director of the Maine Drug Enforcement Agency does set policy in the Asset/Forfeiture Programs and how that money is used. We, as a legislature, don't have much control over that. He also sets policy in how federal funds are spent and we don't have a lot of authority over that either. This is a way to gain a little bit of accountability.

Yes, there are only eight positions in the General Fund that go under the Maine Drug Enforcement Agency, including the director, but there are a number of positions out there that are funded by the federal government that come from towns and counties all through the state. There is also federal money and block grants for all sorts of different programs. I think these are policies that need to be addressed by us, the legislature. One way to do that is to have confirmation of the director of the Maine Drug Enforcement Agency.

I encourage you all to vote for the "Ought to Pass"

I request a roll call, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I have probably been involved in this more than I really wanted to be over the last couple of years.

Just a very brief history, I was on Audit and Program Review that has been spoken of here this morning. I won't get into that in detail. This summer, we had a bit of controversy with these folks and my intent here is to (and has been the last couple of years) make this a workable program, a workable agency. Over the last year, I have met three or four times with the MDEA Board, I have met with the Attorney General's Office, all those involved in the so-called helicopter controversy in the state that is directly run by MDEA and a bill has finally been submitted that MDEA has supported and I

feel it is a fair compromise, it codifies our rules into law.

Not to get off the issue but my point here is that I feel that I have gone overboard in an attempt to negotiate with these folks even though they were under very fierce controversy. Some of the constituents that have called me — I can't repeat some of the things that they said to me. There is a lot of wondering about this agency, a lot of questions about it. My point in being involved in this was to have some control, give the people of the State of Maine and this legislature some control over their activities but, by the same token, to recognize the fact that marijuana and drugs, what have you, are illegal in this state and you cannot gut an agency in order to make a political point. I feel that I have done a very good job and the cosponsors that are on with me have done a very good job in meeting a fair compromise. This measure would, in my opinion, be another step that would strengthen that process.

A point was made by a couple of Representatives on the floor this morning that this would probably be a precedent setting factor in confirming these folks that aren't commissioners. I have got to admit that is the one argument that does give me concern and cause to stop and think about this a little bit more. However, what overrides that decision and makes me want to go with the Minority Report on this is the fact that there is a very heavy, in my opinion, influence by the federal government and the Federal DEA in this agency.

I am concerned that state policy will be overridden by what federal policy may be and, in many cases, they are the same but, in some instances, the attitude or what have you is very different. So, I feel that confirmation of the director is somewhat of a precedent setting move, there is no question about that and I have a little concern about that. However, I feel the concern of Maine citizens over this agency overrides that and I feel that this would be another step for us to gain control of that for the citizens of Maine.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: Many of you who were here in the 115th will recall the debate which we had at that time. What came from that issue was the agreement that you have heard about, but I want to point out to you that the background of this organization was for the purpose of controlling drug trafficking in the State of Maine. The very nature of this organization is one of confidentiality and risk factors. The makeup of this organization encompasses every agency of law enforcement. It is done through this organization and many of the officers from the counties and municipalities are taken into this on a temporary basis and work in conjunction with the State Police through this organization.

The federal funds that were made available to do this were allocated to all levels of law enforcement, but through this organization, the counties and the municipalities agreed that they would put their funds into this organization as long as it was controlled and they were not taken out of it. They still have the right to withdraw at any time and use those monies within their organization.

A year ago when we debated this, this was a very prime factor and in the hearing on that legislation, they were represented very well before the State and

Local Government Committee as to exactly where they stood in relation to this. By making this a legislative approval, you are bypassing their opinions, their feelings. The nature of this single position demands confidentiality, undercover work, which is absolutely necessary, and could risk a questioning of an individual as to their method of operation which should remain within that organization and not publicly declared in order to accomplish the purpose for which it was established.

On the vein of that, I hope that you will remember the purpose and vote against the motion before you and support the "Ought Not to Pass" position.

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

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: Just to clear up one statement from my good colleague, Representative Look from Jonesboro — you are not taking the law enforcement community out of the selection process. The law that we passed last year allows the State Police, the Sheriffs' Association and the Chiefs' Association each to select a person and put that person forward to be approved by the Commissioner. This legislative approval would only require that the Commissioner selection be confirmed by the Joint Standing Committee, whichever was selected to do that.

The only reason that anyone I can think of who would object to this would be if they had an incompetent person that they wanted to be in that position. Why else would you object to having a qualified person present his credentials to the legislature for confirmation? I can't think of a one.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I apologize for getting up again. I just want to clarify one thing here. When Audit and Program Review passed out that bill on BIDE and changed it to MDEA, we made one very significant change, among others, we made their policy board public, they were private before that bill. Their meetings are now open to the public. There are also safeguards in the law that allows them to keep in confidence the workings of their agency. They deal with policy or what have you, that has been public now for almost a year and I feel that this is a great improvement and has not, I repeat, has not put any of the agents out in the field in danger. That is a very good point but I want you to know that the Audit and Program Review Committee kept that point of the nature of this work and the confidentiality of the people working in it as one of the high points of our negotiations. We kept that very clear to the point where we would not even allow the press to film these agents that came in to testify or what have you, we were adamant about that. The intent was to protect the agents that are out on the street. Everyone agrees that needs to be done. However, the policy board was made public and that did not put those agents in any danger and I feel it was a great improvement.

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

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: The importance of this legislation has been very capably addressed by the Chair of the State and Local Government Committee and

Representatives Lemke, Bailey and Townsend. As Chair of the Audit and Program Review Committee, I strongly support this legislation and also urge your support.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Bennett.

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: Representative Townsend and my colleague on the Legal Affairs Committee, Representative Bowers, point to a very important issue of control. I think in regard to the budget, this year we are seeing that the legislative committees do have a lot more control and, thanks to our changes in the rules have, I think, increased control over the most vital aspects of all of the Executive Branch's authority at the frontlines and that is over the budget setting process.

The tough kind of questions that I have heard asked in the Legal Affairs Committee and the State and Local Government Committee, of all people who have come before us justifying their budgets, encouraged me with the notion that this legislature is going to have increased oversight and increased control over many of these areas that perhaps went overlooked before. I know the Legal Affairs Committee is going to demand the kind of answers that Representative Bowers talked about.

There are many, many lower level officials within state government that control federal funds and other spending and we don't ask for their legislative confirmation. I don't think that we need to, as Representative Townsend suggests, gut a department to make a political point in our oversight process. It is up to us to put the limitations on spending, be it federal or state spending from the General Fund, into the budget law. We can do that, we can accomplish it, we can make those recommendations from the policy committees to the Appropriations Committee. So, I think if we want that kind of control, if we want that kind of direction, we can ensure that through our budgetary authority here. It does not require legislative confirmation to achieve that end. I think in fact that the budget process is much more powerful in accomplishing that end.

I encourage you, again, to oppose the pending motion and accept the Majority Report of the committee.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: Speaking only as the Representative of District #89, I wanted to lend my voice in support of the Minority "Ought to Pass" Report and perhaps clear up some of the comments that were made in opposition to the Minority Report.

On the issue of confidentiality, I think that is a red herring. There is no issue of confidentiality whether the director of MDEA is appointed solely by the Commissioner of the Department of Public Safety or approved by the legislature in the confirmation process. The incumbent in the position has probably been on television more than Mike Chitwood has. So, I don't think we have to worry about confidentiality and he certainly isn't worried about confidentiality or his successors worried about any confidentiality. They do appear before legislative committees from time to time and they certainly appear on television more often than most of us do, so I think that is a red herring that has been raised this morning.

Secondly, as an adjunct member of the Audit and Program Review Committee for two years, I served with

many of the members in this body and who this morning raised the testimony from hours and hours of hearings and days of public hearings and oversight on this new agency. For the life of me, I can't understand why anyone in this body or anyone in the bureaucracy would be afraid of confirming, of having confirmation power exercised by a Joint Standing Committee and the Senate. Every sheriff in this state, all 16 of them, are elected. Every District Attorney, all eight of them in this state are elected, none of them appointed.

I am sponsoring a bill that will be heard in the next couple of weeks for the popular election of the Attorney General, the state's chief law enforcement officer. When it comes to law enforcement, I believe that the people should have a voice, not only in the selection, but in the approval of that process. Where can we go wrong when we let the people approve of a position in law enforcement?

Representative Bailey from Township #27 and I have discussed this many times in the last two years. The point that he brought up this morning as a retired Maine State Trooper is this, prior to 1987, the Maine State Police exercised the major function of coordinating law enforcement, investigatory function in drug enforcement. The head of the Maine State Police, the Chief, is confirmed every four years by the Joint Standing Committee on State and Local Government and the Senate.

When this new body was created, formerly called BIDE, now called MDEA, that confirmation power was not followed. I believe that was an oversight. Formerly, when there was an executive council, before I served in this body, every position, practically every position in state government that was above a clerk, was confirmed by the executive council. The Governor couldn't spend a dollar without the approval of the council. I don't find that this is a misstep to add confirmation power of the legislature to another position.

In order that we not discuss the incumbent, I suggested at the hearing as a cosponsor with Representative Lemke, let's remove the incumbent from the position. The Minority Report strikes the incumbent from the position and says the next Director of MDEA ought to be confirmed. Let's not talk about personalities, let's talk about the position. This is one of the few positions in state government that is not a career step position. Usually the Chief Game Warden comes from the ranks of the Game Warden Department, usually the Chief of Liquor Enforcement comes from Liquor Enforcement. These are career ladder positions. It takes 20 years or more to get up to that position, but this one comes from totally outside Maine state government. He is in charge or she is in charge, if it is someone else in the future, of coordinating the State Police, Liquor Enforcement Agents, County Deputies, Municipal Law Enforcement Agents — it is not solely a state government function, it is a coordinating function with hundreds of different agents all throughout Maine. That job is a very, very sensitive position.

When communications break down between that position and the legislature, we both lose. This bill was put in, it was discussed a year ago in order that communication would be improved. I think this Minority Report seeks to do that. It endorses the communication, it endorses the oversight — if that's wrong, why do we confirm anyone?

The power of the Executive in this state has

always been looked down on by the voters. They are distrustful, that's what our Constitution is about when you begin to read it, that more powers should be vested in the legislative body than in the Executive body. This bill seeks to endorse that historic continuation.

I urge you to vote for the Minority Report. I don't think there is anything wrong with confirming the head of MDEA, I don't think there is anything wrong with confirming the head of the Maine State Police, I don't think we would do anything wrong by adding several more directors, the policy-makers in this state.

If we look at all the policy-making positions, even those who don't serve full-time, members of the Maine Housing Authority, members of the Lottery Commission — we confirm dozens of people who are not even full-time employees but who exercise executive power in a very sensitive way. This bill is consistent with that policy so I urge you to support the Minority Report.

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

Representative YOUNG: Mr. Speaker, Ladies and Gentlemen of the House: I just again briefly want to say that there are good and very fundamental reasons why directors of law enforcement divisions in state government, except for the Chief of State Police, are not subject to legislative appointment. I explained the reasons why the Chief of Police is. These people are involved, as Representative Look has mentioned, in doing things that may make people's constituents unhappy. There is accountability there, the question is the kind of accountability that these individuals ought to be subject to and whether or not they need to be in the day-to-day tussle of our legislative process. There is a very good reason why, with that one exception, none of them are. So again, I would urge you to defeat the Minority "Ought to Pass" Report.

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

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: This situation that we are faced with right now surfaced in an unpleasant way two years ago. We had many meetings as part of the Audit and Program Review evaluation and it all came about because of some very unpleasant situations. A segment of the public out there was very, very upset at some of the conditions that existed with the authority that's involved in this legislation.

I think it behooves us to listen to the possible traumatic experiences of the past. There is a strong need for public and legislative input in choosing the head of this very, very sensitive organization. We will attempt to give it credibility through direct involvement.

May I quote to you at this time a very applicable quotation from the great philosopher, Richard Niebuhr when he said, "Man's capability for justice makes democracy possible but man's inclination to injustice makes democracy necessary."

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 Waterville, Representative Joseph, that the House accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 40

YEA - Adams, Ahearne, Aliberti, Bailey, H.; Bailey, R.; Beam, Bowers, Campbell, Caron, Carr, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Coffman, Coles, Constantine, Cote, Daggett, Dexter, DiPietro, Driscoll, Erwin, Farnsworth, Farnum, Gamache, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Heesch, Heino, Hichborn, Hoglund, Holt, Hussey, Jacques, Johnson, Joseph, Kerr, Ketterer, Kontos, Larrivee, Lemke, Lemont, Libby James, Lindahl, Marsh, Melendy, Michael, Michaud, Mitchell, J.; Murphy, Nadeau, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Plourde, Plowman, Poulin, Rand, Reed, W.; Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Tufts, Vigue, Walker, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Barth, Bennett, Brennan, Bruno, Cameron, Carleton, Clukey, Cross, Donnelly, Dore, Faircloth, Farren, Fitzpatrick, Foss, Greenlaw, Hillock, Jalbert, Joy, Kil Kelly, Kneeland, Kutasi, Lipman, Look, Lord, MacBride, Marshall, Mitchell, E.; Morrison, Nash, Nickerson, Norton, O'Gara, Ott, Pendexter, Pendleton, Pouliot, Quint, Reed, G.; Robichaud, Rowe, Simoneau, Small, Taylor, True, Whitcomb, Winn, Young, Zirkilton.

ABSENT - Cloutier, Dutremble, L.; Libby Jack, Martin, H.; Thompson.

Yes, 95; No, 51; Absent, 5; Paired, 0; Excused, 0.

95 having voted in the affirmative and 51 in the negative with 5 being absent, the Minority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-110) was read by the Clerk and adopted and the bill assigned for second reading, Monday, April 12, 1993.

Divided Report

Tabled and Assigned

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act to Increase the County Share of the Government Operations Surcharge Fund" (H.P. 97) (L.D. 139)

Signed:

Senators: BERUBE of Androscoggin  
ESTY of Cumberland

Representatives: JOSEPH of Waterville  
AHEARNE of Madawaska  
WALKER of Blue Hill  
DUTREMBLE of Biddeford  
GRAY of Sedgwick

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-114) on same Bill.

Signed:

Senator: BUTLAND of Cumberland

Representatives: BENNETT of Norway  
KILKELLY of Wiscasset  
YOUNG of Limestone  
LOOK of Jonesboro  
ROWE of Portland

Reports were read.

Representative Joseph of Waterville moved that the House accept the Majority "Ought Not to Pass" Report.

On further motion of the same Representative, tabled pending her motion that the House accept the Majority "Ought Not to Pass" Report and specially assigned for Monday, April 12, 1993.

CONSENT CALENDAR

First Day

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

(S.P. 270) (L.D. 834) Bill "An Act to Establish the Boundary between the Town of Cornville and the Town of Skowhegan" Committee on State and Local Government reporting "Ought to Pass"

(S.P. 288) (L.D. 858) Bill "An Act to Reestablish a Portion of the Boundary between Lincoln and Kennebec Counties" Committee on State and Local Government reporting "Ought to Pass"

(H.P. 242) (L.D. 321) Bill "An Act Concerning the Degree-granting Authority of Educational Associates, Inc." Committee on Education reporting "Ought to Pass"

(H.P. 575) (L.D. 780) Bill "An Act to Clarify Certain Statutes Relating to the Public Utilities Commission" Committee on Utilities reporting "Ought to Pass"

(H.P. 448) (L.D. 574) Bill "An Act Allowing Animal Welfare Personnel of the Department of Agriculture, Food and Rural Resources to Enforce Laws Prohibiting the Sale of Certain Fish and Wildlife" Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (H-120)

(H.P. 156) (L.D. 208) Bill "An Act Concerning Harness Racing" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-121)

(H.P. 209) (L.D. 271) Bill "An Act to Encourage the Recycling of Tires from Municipal Landfills" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment

"A" (H-123)

(H.P. 141) (L.D. 186) Bill "An Act to Retain the Federal Demonstration Grant Funding the Maine Health Program" Committee on **Banking and Insurance** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-124)  
(Senator KIEFFER of Aroostook - of the Senate - Abstained, Representative CARLETON of Wells - of the House - Abstained, Representative KUTASI of Bridgton - of the House - Abstained)

(H.P. 270) (L.D. 348) Bill "An Act to Define Composting Operations as Agricultural Activities for Environmental Purposes" Committee on **Energy and Natural Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-127)

(H.P. 301) (L.D. 389) Bill "An Act to Amend the Laws Relating to Financial Institution Service Corporations" Committee on **Banking and Insurance** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-131)

(H.P. 459) (L.D. 585) Bill "An Act to Further Clarify Appellate Procedures under the Public Sector Labor Laws" Committee on **Labor** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-133)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, April 12, 1993, under the listing of Second Day.

**CONSENT CALENDAR**

**Second Day**

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

(S.P. 150) (L.D. 482) Bill "An Act to Provide an Adequate Period for the Adoption of Local Ordinances" (C. "A" S-53)

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was Passed to be Engrossed as Amended in concurrence.

(H.P. 149) (L.D. 201) Bill "An Act to Establish a Statute of Limitations for Claims against Titles to Property Acquired for Nonpayment of Taxes" (C. "A" H-111)

On motion of Representative Paradis of Augusta, was removed from the Consent Calendar, Second Day.

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

Committee Amendment "A" (H-111) was read by the Clerk and adopted and the bill assigned for second reading Monday, April 12, 1993.

(H.P. 721) (L.D. 980) Bill "An Act to Correct the Boundary Description of the Town of Long Island"

No objections having been noted at the end of the Second Legislative Day, the House Paper was Passed to be Engrossed and sent up for concurrence.

**ENACTOR**

**Emergency Measure**

**Tabled and Assigned**

Resolve, Creating the Kennebec County Law Enforcement Examination Commission (H.P. 365) (L.D. 468) (C. "A" H-68)

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

On motion of Representative Paradis of Augusta, tabled pending final passage and specially assigned for Monday, April 12, 1993.

**PASSED TO BE ENACTED**

An Act to Amend the Laws Concerning Transfers of Commercial Moorings (S.P. 166) (L.D. 558) (S. "A" S-51)

An Act Regarding Motorized Wheelchairs (H.P. 202) (L.D. 264) (H. "A" H-91 to C. "B" H-52)

An Act to Repeal the Mandatory First-aid Requirement for Licensed Maine Guides (H.P. 248) (L.D. 327) (C. "A" H-76)

An Act Relating to Interspousal Immunity (H.P. 258) (L.D. 336)

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

**PASSED TO BE ENACTED**

An Act to Protect Reproductive Privacy in Maine (S.P. 117) (L.D. 318) (Governor's Bill)

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

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: I move that this bill and all accompanying papers be indefinitely postponed.

I feel if I did not make this last appeal, I could not rest with my inner self. I can accept defeat gracefully and have nothing but respect for each and all of you on whatever decision you have undertaken. That is your decision as an elected official of this body.

I personally feel we are eroding the basic fibers of family life. What message do we say to all the parents — yes, I know there are bad parents, there

are parents who have caused incest, there are parents who have caused other problems, there are parents who are alcoholic, but does this mean that we must take a paint brush and with one swoop paint all parenthood?

I ask you while I speak to you today to reflect on your family life growing up. Was it perfect? Maybe no. Were you confronted by problems? Maybe yes and many other things but the one thing you had to fall back on were the family values. That is why parental consent means so much to me. The reasons for my feelings is because I am a parent and very proud of it. I have never taken my responsibilities lightly. Raising my daughter has been the most beautiful experience of my life.

The reason I am asking for postponement of this bill is because I really feel deep down that we are moving a little too fast. I know what my constituency thinks and I think I know what a lot of the people of the State of Maine thinks.

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

To Representative Plowman — the other day in your statements on the floor, you mentioned the procedure of D&X, would you please explain this procedure?

The SPEAKER: The Representative from Lewiston, Representative Pouliot, has posed a question through the Chair to the Representative from Hampden, Representative Plowman, who may respond if she so desires.

The Chair recognizes that Representative.

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: Because this was one of the most difficult aspects of the testimony and things presented to the Judiciary Committee, I would like to defer the question to another member of the body.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I will try to describe what a D&X does. It was described in detail by Dr. Martin Haskell at a September 13, 1992 "Risk Management Seminar" sponsored by the National Abortion Federation, which is a trade association of the largest abortion facility in the country.

Dr. Haskell operates abortions and he told this seminar that he had performed 700 of these techniques. D&X stands for "Dilation and Extraction." The X is used instead of E to distinguish it from D&E, which is dilation and evacuation.

Haskell said that he routinely performed this procedure on all patients 20 to 24 weeks. He also said that he performed D&X abortions on selected patients in their 25th through the 26th week, which is certainly at, or even past, viability. According to Haskell, a Dr. James McMahon performs such abortions up to 32 weeks, which is certainly past viability and many babies live at that point.

To put the size of an unborn child in the right perspective here, Haskell is aborting babies who weigh about a pound, are approximately 8 inches in length, (measuring from the top of their head to the bottom of the rump) with feet roughly 1 inch to 1 1/2 inch in length.

Haskell developed this method himself because he found that the D&E method, which dismembers the unborn child in the uterus, was difficult due to the toughness of fetal tissues. In order to do this, the opening of the woman's cervix must be greatly

enlarged. A D&X abortion requires three days. The first two days are used to dilate the woman's cervix through the use laminaria. These are cylindrical shaped or tapered devices which are inserted into the cervix and which gradually increases in diameter as they absorb water. During the abortion procedure, he uses ultra-sound to identify how the unborn child is oriented in the uterus. Having located an "extremity," he inserts a forceps through the vagina and cervical canal into the uterus and grasps the baby's legs. He has to do that in order to turn that baby so that the baby.....

The SPEAKER: The Chair recognizes the Representative from Blue Hill, Representative Walker.

Representative WALKER: Mr. Speaker a point of order? I would like to know the germaness of this discussion to the bill — to the motion to indefinitely postpone.

The SPEAKER: The Chair would advise the Representative that the pending motion is to indefinitely postpone the piece of legislation before us. The debate that the Representative from Berwick is presently discussing deals with the question and it is a matter of degree.

The Chair is not in a position to determine the propriety of it since I am not a physician. I would merely suggest because, as you know, the Chair has cleared the gallery of the young children that were there. I would simply ask the members to remember that it is not necessarily perhaps described in detail if people do not know what the procedures are. Perhaps I would suggest that they contact their own physician.

Therefore, the Chair would have to simply request that the debate be somewhat more limited in its content but the Chair has to give the floor back to the Representative from Berwick, Representative Murphy.

The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Thank you for clearing the children out. I certainly would not want my grandchildren at that age to listen to this.

At this point, the baby is oriented feet first and face down and extracted from the mother to the point of the base of the baby's head. All of the body is outside of the uterus except for the head, and in all likelihood, this child is still alive.....

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

Representative JOSEPH: A parliamentary inquiry? Mr. Speaker, I am unaware of the formal terms of my inquiry but I find this debate objectionable and I would ask that it not be as descriptive. I almost find it indecent, we do not ask about other medical procedures, we do not ask about pregnancies and vasectomies, we don't ask about any other type of medical operations.

The SPEAKER: The Chair understands the Representative from Waterville, Representative Joseph. However, the matter is under debate and as long as improper words are not used or not found in the vocabulary, the Chair has no basis upon which to rule that it is not germane to the issue. The Chair has already made a point and the Chair would ask the members to kindly watch what they say but the issue is before us and the Chair must let the Representative from Berwick continue the discussion.

The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: At this point, the doctor slides his hand up to the base of the baby's brain and with a pair of scissors, he punches that so that may suction out the brain of that child. This is not a pretty picture, I will be the first one to agree to that, but these are the facts that are happening out there to these children. I think we ought to take a second look and see what's going on.

In my own personal opinion, it is murder.

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you oppose the indefinite postponement of this bill. It has been debated many, many times. Our minds are all made up and I think at this time we are not going to change anybody's vote on this. I think it is time that we laid this to rest and send it out of here and send it down to the other body.

While I am on my feet, Mr. Speaker, I would request the yeas and nays when the vote is taken.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I, too, am a parent and proud of it. I would ask other members of this body not to cloak their arguments in the mantle of parenthood.

I would also comment that we debated this issue fully on Tuesday, we conducted ourselves with decorum, we managed to get through the day with as much politeness and restraints as we possibly could. I am severely disappointed that we have stooped to the level of emotionalism and graphic descriptions to try to change a vote which was decided by a significant margin.

I will be voting against the indefinite postponement of this bill and I would urge others to join me.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I, too, thought that this issue had been debated in a full manner the other day and thought it had been decided. I have been here long enough to know that nothing is in cement.

However, the description, no matter how disgusting it was, is beside the point. As a matter of fact, if anyone has a desire we could stay here all day and we could describe every medical procedure associated with this that you would want to, but it is still beside the point.

What we are attempting to do here with this amendment is we are attempting to legislate good parenting, good family — that isn't going to happen. If you have a daughter, or a son for that matter, that gets in trouble in this life and comes to you, then you can be pretty sure that you have done a pretty good job with your children. If your daughter or son goes elsewhere out of fear or what have you, don't blame the child, that's not going to change anything. We are not going to change any family function with this bill. I am a parent, I am very proud of it. I am very secure in the way I raised Jennifer and I have not been perfect and I don't want anyone to get that impression. However, if she does not come to me with a problem, I don't care what the problem is, if she does not come to me, then I will blame me, no one else. The government isn't going to change that, laws aren't going to

change that.

This is very disturbing here this morning and it is probably more disturbing, not so much for its graphic description, but the fact that it is beside the point. It is a round about way to change a decision that an overwhelming majority of this body made the other day. I would ask those folks who voted to protect the families of this state to stick by their guns and vote against this motion.

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

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I will try not to get emotional. A couple of people said that I was almost getting there the day before yesterday.

I am troubled here with some of the things that I have heard stated just recently, one of them being that we should not ask about a procedure like this. When we were in this House dealing with this subject matter the other day, we voted against amendments, against bills that would have provided information. That really troubles me. I think we should get all the information we can to base our decisions on and I will vote for the indefinite postponement of this because I would like all the information and I think everyone here is entitled to have all the information. A radical procedure such as D&X, to me, does kill a child and that information should be on everybody's desk. You should base your decisions and your vote on all the information that you can get.

This specifically refers to House Amendment "D", which this body defeated. House Amendment "D", for any who don't remember which one that is since there were so many of them, adds to current state policy concerning abortions, that an abortion performed after viability must be performed in such a manner as to prevent the death of the unborn fetus. A second pediatric physician must attend the physician performing the abortion.....

The SPEAKER: The Chair would caution the gentleman from Old Town that the question is on indefinite postponement of the bill. That amendment is no longer before this body, having been defeated by this body. The only question before us now is on the motion to indefinitely postpone the bill as it is in its present state, L.D. 318.

The Representative may proceed.

Representative COFFMAN: Thank you, Mr. Speaker. I am still troubled that we are making decisions in here and withholding information or choosing not to look at certain pieces of information.

I would like to just speak for a moment from my heart and why I have the viewpoints that I do on this subject matter. As I have stated before, I came down here as a "choice" legislator. I told everyone that I would not interfere with a woman's right to choose but that does not mean total, unrestricted abortions. Why do I have my own personal point of view which differs (actually it doesn't differ) — my choice would be not to have an abortion because it wasn't that many years ago when I was up in Lagrange, I had a 10 acre farm, and I farmed organically. I grew plants, all open pollinated seed varieties, not hybrid seeds, I tried to keep as much in tune with nature as I could. I studied endless volumes of books on growing plants, figuring that if I was to find out how things work, how our Creator, our God, has made things, I would find out through nature because it is His nature or Her nature, however you look at that. I grew a field of wheat and in

researching through these volumes, I had a dawning, I saw that every grain, every kernel that is produced in nature, has a different program in it. It answers different needs, it answers different climate conditions, every seed reacts differently to every different virus, to every disease that is out there — every single kernel, every single seed in that field that I planted was programmed with a specific need. It is just like salmon fishing or the salmon runs. When things were in its natural state, the salmon went up, say, the Columbia River and the different salmon went through different tributaries, different rivers that ran into the Columbia, different streams that ran into those rivers and if there was an illness or a sickness, virus or something that attacked the salmon, it would not wipe out the entire salmon population. Why? Because they were all different. Every time a group of salmon would come from a certain tributary or a certain stream, they were all different than all the other ones.

We are created the same way. Every single one of us are created to answer the needs of today. Everyone of us. It doesn't matter if that one of us is retarded or flawed in some way, I think we can safely admit that we are all flawed in some way and who is to be the judge here? Who is to be the judge? I know of only one judge sufficient to decide who should be here and who shouldn't. I think that this bill and the importance of it is dealing with that subject matter. Mankind is now putting themselves in that position of usurping that authority from our Creator.

This procedure that has been referred to is going over those bounds of aborting a fetus. This is murdering a child. I am sorry, but as someone who would support a woman's right to choose, I cannot, in all conscience, live with myself (and that is who I have to live with, that is who I have to look in the mirror at every morning) without stating publicly that I believe if we pass this bill, we are opening the door to murder.

I have asked that literature be distributed, one page, showing what this procedure is and, through a technicality, it is not on your desks because I did not denote that it was printed at my request. I apologize for that but I think that is information that should come to each and every one of you.

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

Representative DORE: Mr. Speaker, Men and Women of the House: I would like to comment on Representative Coffman's speech. Early in his speech, he indicated that he was pro-choice and that he ran as a pro-choice Representative.

I have many people on the other side of this issue for me and I respect their position and they have conducted themselves with dignity. It has been painful for all of us, as this issue always will be. We are divided on this issue but Representative Coffman disturbs me because for him to state that he ran as a pro-choice candidate, given the nature of the speeches he has made in the past few days, that he deceived his constituency. Of that I am ashamed. I have run as a pro-choice candidate through four elections now and many of my constituents are on the other side of the issue but I have never hidden from them and I have always made public statements about where I stood on this issue and my rationale for it. Even when they disagreed with me, they have been able

to respect me.

Representative Pouliot has run as a pro-life candidate. He has never hidden from his constituency his stand on this position and even when constituents disagree with him, they respect him because of his candor on his position. What I am ashamed of....

The SPEAKER: The Chair would caution the Representative from Auburn not to question how someone ran or why they ran the way they did or what they did or whatever. The matter before us is only on the question of indefinite postponement and nothing else.

Representative DORE: Mr. Speaker, I apologize. Having his comments on the Record made it necessary for me to put mine on the Record.

The process that we have been through this morning, the descriptions that we have been through, are unnecessary for some of us and perhaps necessary for others. I would like to state, however, that I am not aware of circumstances under which someone late in the second trimester chooses to go through a difficult choice like that one in a cavalier fashion and that is why I continue to be pro-choice. It is a private matter, it is a private anguish and it is a desperate situation, usually involving severe medical problems that force someone to make that kind of decision late in a pregnancy. We do not belong as judge and jury of their rationale for making those decisions. Those are not easy decisions for people to make and they are not made in a cavalier fashion. Thank you, ladies and gentlemen.

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

Representative JALBERT: Mr. Speaker, Men and Women of the House: I, myself, will support the motion to indefinitely postpone. I feel in its present form that we have gone beyond the right of a woman to choose. When we decided to take the parental consent out of the bill, that is when I said I couldn't go along with it. Not only are we saying the right of a woman to choose, that we've decided, I am not questioning that anymore, what I do question is that they are now saying that besides that, we are taking the right of the parents to decide on their minor children.

I think one of the most difficult tasks that could be placed on the shoulders of a man and a woman is to raise children. Children can be a great help, a great blessing, but it also can bring heartaches. I raised four the best I could. Unfortunately, the Almighty said that one of them I must take away from you. I am not questioning that. As I have said before, anyone that doesn't have any children sometimes can consider themselves fortunate. They do not have the heartaches that may come with it. But, in its present form, I cannot support it. I don't like the idea under the guise of protecting a woman's right to choose that you also take my rights away to determine whether or not I will have anything to say about a minor daughter.

I have finished, Mr. Speaker. Unfortunately, I agree that everybody has a right to speak. Everybody has been saying that it is a woman's right to choose — it is also everybody's right to choose in this body, if you wish to speak, you are allowed to speak without somebody waiting to jump up or interrupt when you are speaking. That is something that should not be allowed. I know the Speaker has been very strict on that. I have sat here and not interrupted anyone but I should have at least the right to say thank you



and sit down before somebody else pops up to speak. I know that it is the trait of some people and I have seen that all my life, that when somebody disagrees with you, don't let them finish. They might say something that makes sense. I am saying at this time that I agree and I will accept the fact that this body has overwhelmingly decided that it is a woman's right to choose but please give me the right to choose what I want to say and why I am against, in its present form, taking my rights away to determine how I shall raise my children.

The SPEAKER: The Chair recognizes the Representative from Canaan, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I apologize to the good Representative, Mr. Jalbert, for my awkwardness. This is the first time that I have spoken in this chamber.

I am not in favor of abortions. Few are in favor of abortions. The issue is a woman's right to choose. I support that right, I will vote against indefinite postponement of L.D. 318.

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

Representative YOUNG: Mr. Speaker, Ladies and Gentlemen of the House: I also have a tremendous amount of respect for everyone who has spoken on this bill. On either side, I think the debate has been conducted in a very disciplined fashion and I appreciate that. I don't know how long the debate will gone on today. As you know, I refrained from speaking on this bill but I would just like to ask one thing at this point, given the nature, it is a religious holiday, today is Holy Thursday, Monday is Easter Monday, I hope I won't offend any members — I am going to ask that we table this matter two legislative days.

The SPEAKER: The Chair would advise the Representative from Limestone, Representative Young, that since he has debated the issue, the motion to table by the Representative is out of order.

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

Representative HOLT: Mr. Speaker, Ladies and Gentlemen of the House: I forgot that the motion to table is not in order but I would just like to tell the people that long ago my beautiful grandmother said to me, when she was told of having doing something wonderful for her family on Sundays by the neighbors, she said, "The better the day, the better the deed." Obviously, I don't need to tell you that now but let us get on with what we think we must do for our families and the people that we represent as speedily as possible so we can get on to the other business they have sent us here to do.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, I move to table for two legislative days.

Representative Farnsworth of Hallowell requested a roll call on tabling.

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 Brewer, Representative Ruhlin, to table two legislative days. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 41

YEA - Ahearne, Aikman, Aliberti, Anderson, Bailey, R.; Beam, Campbell, Carr, Clark, Clukey, Coffman, Driscoll, Farren, Hichborn, Jalbert, Joy, Kneeland, Libby James, Look, Lord, MacBride, Marshall, Melendy, Michaud, Murphy, Nickerson, Pouliot, Quint, Reed, W.; Ricker, Robichaud, Ruhlin, Simoneau, Stevens, A.; Tardy, Tufts, Vigue, Whitcomb, Young.

NAY - Adams, Ault, Bailey, H.; Barth, Bennett, Bowers, Brennan, Bruno, Cameron, Carleton, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clement, Coles, Constantine, Cote, Cross, Daggett, DiPietro, Dore, Erwin, Faircloth, Farnsworth, Farnum, Fitzpatrick, Foss, Gamache, Gean, Gray, Greenlaw, Gwadosky, Hale, Hatch, Heeschen, Heino, Hillock, Hognlund, Holt, Hussey, Jacques, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Kutasi, Larrivee, Lemke, Lemont, Lindahl, Marsh, Michael, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nash, Norton, O'Gara, Oliver, Ott, Paradis, P.; Pendexter, Pendleton, Pfeiffer, Pineau, Pinette, Plourde, Plowman, Poulin, Rand, Reed, G.; Richardson, Rotondi, Rowe, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Small, Spear, Stevens, K.; Strout, Sullivan, Swazey, Taylor, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, True, Walker, Wentworth, Winn, Zirkilton.

ABSENT - Cloutier, Dexter, Donnelly, Dutremble, L.; Gould, R. A.; Libby Jack, Lipman, Martin, H.; Thompson, The Speaker.

Yes, 39; No, 102; Absent, 10; Paired, 0; Excused, 0.

39 having voted in the affirmative and 102 in the negative with 10 being absent, the motion to table two legislative days did not prevail.

The SPEAKER: The pending question before the House is indefinite postponement of L.D. 318, a roll call having been requested.

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 Sanford, Representative Carr.

Representative CARR: Mr. Speaker, Ladies and Gentlemen of the House: I have heard the Representative from Berwick describe the procedure called D&X and I have heard others protest her testimony; yet I have not heard anyone deny this procedure.

I would like to pose a question through the Chair. Is this procedure that Representative Murphy described correct or incorrect?

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

The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: This procedure is correct. It was given at a Risk Management Seminar, sponsored by the National Abortion Federation on December 13, 1992. It can be checked out, documented. The article was written by a Dr. Richard D. Glasow, Ph.D..

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

Representative HøGLUND: Mr. Speaker, Ladies and Gentlemen of the House: I have been here for a long time and I think this is one of the worst tactics I have ever seen to be described on the House floor. It seems to me, if you are talking about morals and values, then you ought to look at the way the question was presented and how the question is answered and to whom the question was going to. Isn't it really astonishing and I am really appalled at a legislator who runs up and has all the statistics on a person who asks the question. I guess if you need to ask that question, you have your physician, you have your spouse, and you have yourself — you could have asked it yesterday but it is a question that I find very appalling to us on the House floor.

I am a Catholic, I am a mother, I am going to be a grandmother, I know the pain of delivering children — does anyone ever ask that? I can also tell you that I am supporting L.D. 318 and I hope you all vote against this indefinite postponement. If you talk about morals and family values, please if you want to ask the question, you should ask your physician.

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

Representative FAIRCLOTH: Mr. Speaker, Ladies and Gentlemen of the House: I deeply respect the views of Representative Pouliot and Representative Murphy and I even respect Representative Murphy's right to question these matters in any way that she sees fit. That's her right but we have debated this matter and we have decided this matter so please it is time to move on.

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

Representative LORD: Mr. Speaker, My Learned Colleagues: I was one of those who voted for this motion a couple of days ago. I voted for it because I thought there were some darn good amendments on there that would strengthen it. I personally feel that in its present form that it is too loose.

This procedure that was described is Greek to me, didn't know the first thing about it and I am pretty old. I am going to vote to indefinitely postpone it. I really am. I can't in good faith vote for this bill the way it is in its present form. I am going to change my vote and I am telling you right now.

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: We have heard an awful lot about dignity, we have heard things about "this is not the type of procedure we should be following." I told you today in my opening testimony that I respected every member of this body, the 151. The decision that you made was your decision. The decision that I make will be my decision but I was always under the assumption that in this House all facts should be brought to the floor. There is nothing wrong in bringing facts that brings out the truth. It may not be agreeable to whichever side you

are on but I think the question was asked on the floor of the House, if there is any misstatements on this D&X, then I would say that you should stand and tell us that it is wrong. I fear that the people back home that I represent have a right to know everything that we vote on. There are times that we vote on issues and we don't have all the facts. I am sorry to say to you, if we have the facts today, I am glad that those who stood and explained it, I am just hoping now that maybe the members of the media will be able to get the message back to the voters.

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

Representative RYDELL: Mr. Speaker, Men and Women of the House: Due to the religious holiday, I was not able to be here for the debate on Tuesday. I am really surprised at the debate today. I want to affirm today before this body what this legislation does. This legislation preserves current Maine law regarding reproductive choice in Maine. It affirms in Maine statute the protections of the 1973 U.S. Supreme Court decision in Roe v. Wade, that is what it does. It ensures the state does not limit a woman's access to abortion except after fetal viability. After viability, abortion is allowed only to save the life or preserve the health of the mother.

This bill today that we are voting on will leave in place the legislation that this body and this legislature put in place a few years ago regarding adult involvement prior to an abortion of a minor.

This bill also affirms the current state policy that the state does not restrict, I remind you, a woman's exercise of her private decision to terminate a pregnancy before viability. We are affirming Roe v. Wade, we are affirming the woman's right to choose. That is what the debate should be on, that is what the vote is about today.

I ask you to vote against indefinite postponement of this bill.

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

Representative MELENDY: Mr. Speaker, Men and Women of the House: I just want to remind you that today you are not voting for choice or not having choice. If we indefinitely postpone this piece of legislation, what we are doing is just going back to what is in law, choice will still be there.

My concern is that this piece of legislation today does not keep in that waiting period. To me, that last 24 hours or 48 hours a person has in order to really think out and make that final decision is ultra important. You have that when you make a purchase of a car or a washing machine or what have you. It is the waiting period that I believe really should remain in there. I don't know what the big problem is in taking that out.

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

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: I never thought, Representative Melendy, I would be agreeing with you on a lot of things.

Going back to Representative Rydell, this is the issue of Roe v. Wade. The issue of viability is in Roe v. Wade and there is nothing wrong with postponing enacting this law until we have a chance to look into this a little further. Up to viability, most of us have no problem at all with a woman's right to choose for any reason. That is her right,

her privilege, do what you want to do between you and your doctor. After viability, Roe v. Wade is very specific. I read it to you the other day, it is very specific. It says that the state should consider the life of the fetus and it has to do that. Yes, Representative Murphy read or described to us a procedure that is offensive, but it is the truth. She described a procedure that is performed on a baby after the point of viability and Roe v. Wade addresses that. So, what is the big hurry? Representative Melendy is right, if we postpone this thing indefinitely, we take a look at it, look at some of the facts, you may want to change your mind as to what we are going to do in this state after viability. Think about that. If the laws are on the books, we are not denying anybody anything, but we are taking a second look at something. We are taking a second look at a living being having a chance to live.

Representative Townsend of Eastport was granted permission to address the House a third time.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: First off, I am absolutely amazed that anyone would think that a person would go to get a medical procedure and would need 24 hours to make up their mind. Generally by the time they go to the doctor, they have thought this out in-depth. I would even take it to the point of buying a car — when I buy a car, I most certainly think about buying that car and what I want to buy before I go to the lot. Medical procedures are not something people rush into. I think that medical procedures, generally speaking, are pretty intimidating to most folks.

I do respect anyone who wants to bring up different facts and particulars about this, even if it is a procedure that bothers us. It is my understanding and I am convinced that this procedure is only done in the event that a woman's life is in danger. So, in order to get all the information on that particular procedure, we have to look at the other side of the coin. If the woman does not have that choice and that woman dies, maybe we should have described here for us today the procedure that a loved one that passes on goes through in the embalming process. Maybe that is disgusting too but nonetheless, that is the fact of the case. We are talking about preserving a woman's right to choose. I will remind you that it comes down to that. We have had religious inferences here on this issue many times. That is, once again, for each of us to decide for ourselves.

I didn't make my decision to be pro-choice yesterday, the day before, or last week. This is an issue that has been dividing this country for years. There has been much information pro and con, it's already available, anything you want to read about this is available. We need to preserve a freedom of choice for the women of this state. That is what this issue is about and anything else is an aside issue.

There are amendments that I even considered supporting. However, I get the underlying feeling that no matter how many amendments are presented, there are those, either here or in this state, that want to impose what they feel their feeling on this issue is onto everyone else. It is not going to work, ladies and gentlemen, this is an issue that each person has to decide within their own heart. We decided this, I felt, overwhelmingly the other day.

All the amendments had a fair airing, many people made very good points. We are just rehashing old information. I would urge you to stick by your vote of the other day and defeat this motion.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: Many people have referred to the bill not having any effect on what is presently in law in the state. So, if this bill, L.D. 318, doesn't change the law at all, why are we fighting and trying so hard to pass it and not have any restrictions on it? It is kind of — it becomes questionable, why are we working so hard if it doesn't change the law?

Number two, why are we trying to pass this during Holy Week? Is it bad enough to pass it any other time of the year but passing this during Holy Week, we are going to live with this for the rest of our lives, not because we pass it during Holy Week, but because we are passing it.

I will be able to live with my conscience. I went home the day we worked on this, I didn't sleep at all that night because I worked and I felt so inadequate that I wasn't able to sway or change a thing in this place. Everybody was still dead set on passing the bill exactly the way that it was intended. Ladies and gentlemen, I hope that we really give this some serious thought, at least give some respect to the unborn, have some minor restrictions and not leave it open as it is right now. I urge you to rethink your position. Let's not pass this during Holy Week.

I thank you for your time.

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

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief and try to be germane to the issue at hand.

I would like to read you this sentence in L.D. 318. "After viability, an abortion may be performed only when it is necessary to preserve the life or health of the woman." I accentuate 'health' and, as I stated the day before yesterday, 'health' according to the Supreme Court, means either physical, emotional, psychological, familial or the woman's age.

I would ask you to support the indefinite postponement of this bill to give time to those who so desire to amend that bill, to amend it so that there would be no D&X procedures performed after viability. I think that is a strong reason to indefinitely postpone this bill.

The further we get into these issues and discuss this, I am almost getting the feeling that pro-choice means no choice, no information, don't ask questions, vote down here without all the facts before you.

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

Representative MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: This is a very upsetting issue for everyone. I am one of those people that is opposed to abortion and I will be voting pro-choice today. I don't think there is a role in the government to determine theological matters and we have also seen over the years that it doesn't work to try to manage abortions through laws. So, as disgusting as the whole matter is for me, I will be voting to give people that right to choose. I would no more vote to go back to the prohibition days in terms of alcohol or vote to return marijuana back to

the severe penalties we had ten or twenty years ago because those are also unmanageable personal matters and totally unworkable.

What this state needs is a cultural revolution as opposed to a political revolution because what the pro-life people want to achieve cannot be done politically. It can be only accomplished by returning to a community mentality where people discover who they are as human beings, where unwed mothers are welcomed into society as they are in Europe and that kind of a cultural shift will make the change that people want.

One last thing, I would actually like to thank the gentlelady from Berwick, Representative Murphy, for her statements. I know she wasn't that comfortable making them but when in doubt in any political environment and certainly this one, I think it is always good to put the truth in people's faces as you see it and I want to commend you for doing that.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Robichaud.

Representative ROBICHAUD: Mr. Speaker, Colleagues of the House: I just want to go back to something that the good Representative from Rockland, Representative Melendy, said. I feel that I guess we have gotten away from what I see is the debate on the bill. What we have done is gotten into a debate that is pro-life, if you will, versus — I am going to put it very bluntly, I think it is people who oppose abortion versus those who would allow a woman to choose, yes, but my position is, I would not choose to have an abortion but I would not like someone to tell me I had to. So, in that respect, I do consider myself pro-choice, but throughout this debate today and the debate on Tuesday, I have tried to focus on the bill in front of us. What I have come to and made my decision is that the Bill, L.D. 318 as it stands now with no amendments, the process has opened up the availability of abortions to an extent that I do not feel comfortable with, I do not at all.

I would also like to echo what Representative Melendy said, we already have abortion as an option on the books. By not passing this piece of legislation, we are not outlawing the act or the process of abortion. We are amending it to put it under a new set of guidelines. Based on the bill in front of us, I am sorry, I apologize to those who may not agree with me, but I cannot support L.D. 318 and I support the motion to indefinitely postpone.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: If today the defeat of L.D. 318 or the indefinite postponement of L.D. 318 meant that abortions were to be illegal in the State of Maine, I would vote for 318. I would like that on the Record.

During our five hour debate on this bill, many thoughts were put forward for your consideration. Some quite reasonable, one quite unintrusive. Perhaps because we termed the information we wish the women to receive as alternatives, this amendment was deemed unnecessary. It was pointed out to me that the alternatives to abortion is childbirth. How obvious, sorry I missed that.

What we meant to provide was a list of resources to allow women to consider childbirth as an alternative. I am sorry that this initiative failed.

Another idea we discussed was parental notification. The opponents deemed this was, not

only dangerous, but unnecessary. We have an adult involvement provision. This provision was described as model legislation. The argument against our provision followed the guidelines as set forth in the now legal defense in education fund material, called Protecting the Young Woman's Right to an Abortion, a Guide to Parental Notification and Consent Laws. I would like to quote from page 21, section five. "This chapter provides descriptions of statutes that have been enacted or proposed in Connecticut, Hawaii, Maine, Maryland, West Virginia and Wisconsin. None of these laws are desirable. The ideal situation is to have either no law at all regarding the minor's access or else a law that explicitly eliminates any restrictions on the minor's ability to consent to their own abortion without parental or adult involvement. The six laws, and I quote, "The six laws described here are not modeled by any means."

When 318 passes or even today when a minor decides she is to have an abortion, she is subject to only the following restrictions, a qualified adult must be involved. She must receive counseling regarding her abortion and the alternatives and the abortion must be performed by a physician. Except, there is one other restriction that affects this young lady that morning or afternoon, on the way to the doctor's office, the young lady must wear a seat belt. This body decided earlier that a minor cannot discern or recognize the danger that traveling unseatbelted might pose to her.

I would just like to offer those thoughts to you before we vote on this motion to indefinitely postpone. I will be voting to postpone.

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

Representative MARSHALL: Mr. Speaker, Colleagues of the House: I was hoping not to have to speak today but I seem not to have any choice in that matter.

It has been referred to earlier that the description of the D&X was disgusting and that other surgical procedures would be equally as disgusting. Well, I have seen many surgical procedures because of our public television channels and other situations where they have probed deep into the human body and I find that even though sometimes it is bloody and a little messy that it is not disgusting. In fact, it is quite a marvelous thing to see how the human body functions. However, I find when you have to pull a baby out of a mother's body and suck its brains out to be quite disgusting. I don't find it to be strictly a private matter to kill a child prior to or after it is born.

It seems to me from what I hear in the debate on this bill that we would do more than not change the provisions in Roe v. Wade but we would remove its protective provisions. We seem to have a severe aversion to the facts or the truth of what we are really doing, we don't want that out. That seems to be evident from the rejection of the amendments that we tried to put on that the applicant should at least see the progressive development of the baby and that a minor perhaps ought to notify their parents. We seem to have an aversion to that. We seem to have instead a bill that would protect the business of the abortionist.

I am also told and have confirmed it with others that are familiar with accounting practices that the typical abortionist has an earnings roughly ten times that of a typical G.P..

I wonder where we would be today if we were to apply the same arguments that we are using against this bill to the slavery issue, that it would be my choice whether or not I would like to have slaves or not. Perhaps it should be my choice whether I decide that my six year old child is a nuisance and interrupts my life-style or I can't afford her anymore and decide to do away with her. Sounds disgusting, but it seems pretty close to the same thing.

We talk about choice, but we are soon going to see bills, I do believe, to restrict smoking to raise tariffs on them to take away people's choice. We are going to hear of bills to make it mandatory to wear seat belts, take away the choice there. We already have bills that take away our choice as how we use our private property. I find it appalling that we would go into a situation such as this one and not even ask that a woman or a child perhaps that is planning or thinking of having an abortion, not stop for 24 hours and think about it again, or, here take a look at the pictures and see the development stage at which your child might be in.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Pouliot of Lewiston that L.D. 318 be indefinitely postponed.

The Chair recognizes the Representative from Township #27, Representative Bailey.

Representative BAILEY: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Lipman of Augusta. If he were present and voting, he would be voting nay; I would be voting yea.

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

Representative FARNHAM: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Ott of York. If he were present and voting, he would be voting nay; I would be voting yea.

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

Representative HALE: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Martin of Van Buren. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The pending question before the House is the motion of Representative Pouliot of Lewiston that L.D. 318 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 42

YEA - Ahearne, Aliberti, Anderson, ; Bailey, R.; Beam, Campbell, Carr, Chonko, Clark, Clukey, Coffman, Dexter, Driscoll, Farren, Gould, R. A.; Hichborn, Hussey, Jacques, Jalbert, Joy, Kneeland, Kutasi, Look, Lord, MacBride, Marshall, Melendy, Michaud, Murphy, Pinette, Plowman, Pouliot, Quint, Reed, W.; Ricker, Robichaud, Simoneau, Stevens, A.; Strout, Tardy, Tufts, Vigue, Young, The Speaker.

NAY - Adams, Aikman, Ault, Barth, Bennett, Bowers, Brennan, Bruno, Cameron, Carleton, Caron, Carroll, Cashman, Cathcart, Chase, Clement, Coles, Constantine, Cote, Cross, Daggett, DiPietro, Donnelly, Dore, Erwin, Faircloth, Farnsworth,

Fitzpatrick, Foss, Gamache, Gean, Gray, Greenlaw, Gwadosky, Hatch, Heeschen, Heino, Hillock, Hوجلund, Holt, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Lemont, Libby James, Lindahl, Marsh, Michael, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nash, Nickerson, Norton, O'Gara, Oliver, Paradis, P.; Pendexter, Pendleton, Pfeiffer, Pineau, Plourde, Poulin, Rand, Reed, G.; Richardson, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Small, Spear, Stevens, K.; Sullivan, Swazey, Taylor, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, True, Walker, Wentworth, Whitcomb, Winn, Zirkilton.

ABSENT - Cloutier, Dutremble, L.; Libby Jack, Thompson.

PAIRED - Bailey H.(yea)/Lipman (nay); Farnham (yea)/Ott (nay); Hale (nay)/Martin, H. (yea).

Yes, 44; No, 97; Absent, 4; Paired, 6; Excused, 0.

44 having voted in the affirmative and 97 in the negative with 4 being absent and 6 paired, the motion to indefinitely postpone L.D. 318 did not prevail.

Subsequently, L.D 318 was passed to be enacted, signed by the Speaker and sent to the Senate.

On motion of Representative Gwadosky of Fairfield, under suspension of the rules, was ordered sent forthwith to the Senate.

ORDERS OF THE DAY

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Tuesday, April 6, 1993, 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 Related to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Act (EMERGENCY) (S.P. 320) (L.D. 973) (H. "A" H-77)

TABLED - April 5, 1993 by Representative ERWIN of Rumford.

PENDING - Passage to be Enacted.

On motion of Representative Erwin of Rumford, under suspension of the rules, the House reconsidered its action whereby L.D. 973 was passed to be engrossed.

The same Representative offered House Amendment "B" (H-135) and moved its adoption.

House Amendment "B" (H-135) was read by the Clerk and adopted.

The bill was passed to be engrossed as amended by House Amendments "B" (H-135) and "A" (H-77) thereto in non-concurrence and sent up for concurrence.

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

An Act Prohibiting Political Activity by Members

of the Workers' Compensation Board (S.P. 19) (L.D. 9) (C. "A" S-37)

TABLED - April 5, 1993 by Representative PARADIS of Augusta.

PENDING - Passage to be Enacted.

On motion of Representative Joseph of Waterville, under suspension of the rules, the House reconsidered its action whereby L.D. 9 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-37) was adopted.

The same Representative offered House Amendment "B" (H-130) to Committee Amendment "A" (S-37) and moved its adoption.

House Amendment "B" (H-130) to Committee Amendment "A" (S-37) was read by the Clerk and adopted.

Committee Amendment "A" (S-37) as amended by House Amendment "B" (H-130) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (S-37) as amended by House Amendment "B" (H-130) thereto in non-concurrence and sent up for concurrence.

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

Bill "An Act to Ensure Geographically Appropriate Placement for Nursing Home Residents" (S.P. 87) (L.D. 241)

TABLED - April 5, 1993 by Representative TREAT of Gardiner.

PENDING - Passage to be Engrossed.

On motion of Representative Paradis of Augusta, retabled pending passage to be engrossed and specially assigned for Monday, April 12, 1993.

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

SENATE DIVIDED REPORT - Majority (10) "Ought Not to Pass" - Minority (3) "Ought to Pass" as amended by Committee Amendment "A" (S-52) - Committee on State and Local Government on Bill "An Act Providing for the Election of Commissioners of the Public Utilities Commission" (S.P. 45) (L.D. 57) - In Senate, Majority "Ought Not to Pass" Report read and accepted.

TABLED - April 6, 1993 (Till Later Today) by Representative JOSEPH of Waterville.

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

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

Representative AHEARNE: Mr. Speaker, Ladies and Gentlemen of the House: I rise today in opposition to the motion to accept the Majority "Ought Not to Pass" Report. I will be brief and, hopefully, to the point.

It is clear that the recent elections have clearly demonstrated that the people of Maine and of the nation want a change in government. The people

want and expect their voices to be heard. The people want an increase, not a decrease, role in government. This legislation is one of several bills that seek to give the voters of Maine a greater role in government. Opponents of this bill contend that is irresponsible to permit the election of the PUC Commissioners because someone will campaign around this state promising to lower rates. Candidates for President routinely make numerous promises and commitments only to often fail to keep these promises. Yet, I don't hear these same individuals argue that they are unfit for office because they failed to keep their promises, unless of course they happen to be from the opposing party.

Using this same logic, do the opponents appointed to the election of the PUC Commissioners contend that the Governor, the President, members of Congress and even the members of this legislature should not be elected by the people? Hardly. Only members of the PUC. Are the opponents of this legislation telling us that the PUC Commissioners are more important than the Governor, the President, the Congress and this legislature? Are the opponents of this legislation telling us that the qualifications for PUC Commissioner exceed the qualifications for President and Governor, Congress and this legislature?

The contention that the voters of Maine will be unable or unwilling to decide the best candidate for the PUC Commissioners is really, in all honesty, an insult to the people of Maine. The people of Maine are not dumb, the people of Maine are not naive, the people of Maine are fed up with being excluded from the decision process. The people of Maine demand to be heard and it is time for a change.

Another argument I hear is that the job requires such skill and knowledge that the election of the PUC Commissioners will reduce the efficiency and the effectiveness of the PUC. I find this argument to be, quite frankly, weak. I am certain that many ratepayers question the effectiveness of the PUC as it is now constituted.

Of the present members on the Commission, we have to look at what the qualifications bring. One of the current Commissioners, Elizabeth Paine, was the Director of the PUC Finance Division for eight years prior to her appointment. Prior to that, she worked for the New England Veterans Group, the American Broadcasting Corporation, Arthur D. Little, Union Oil and Citibank, not exactly in my opinion an expert in utilities, even though she does possess a B.A. and an M.D.A..

The second member of the PUC, William Nugent, possesses no utility expertise prior to his appointment. He was the President and CEO of the Greater Portland Chamber of Commerce, Executive Vice-President of Envirologic Data, Commissioner of the Michigan Lottery and Deputy Director of the Michigan Office of Management and Budget, not exactly a utilities expert.

The recent nominee to fill the vacated chair of the PUC has also been the Deputy Attorney General of Pennsylvania, a General Attorney for Atlantic Bell Telephone Company and an attorney for a California law firm. Although his experience as an attorney includes rates and tariff litigation, he still fails to fit into the category as a utility expert.

Where are the consumers or the people's representative on the PUC? We are often told of expertise and skill of the PUC staff and it is clear that good Commissioners utilize the talents of its

staff to make their required decisions. Good management must distinguish between good and bad recommendations from staff members and good managers know how to utilize the technical staff. They don't duplicate the work of the staff; in fact, they don't have the time to duplicate this work, even if they had the ability to do so. Obviously, the qualifications for PUC Commissioners should be that the individuals be honest, have great integrity, good analytical ability, be fair and objective and be committed to serve the interests of the people of Maine, not the Governor, not the legislature, not the utilities, but the people of Maine.

I, for one, believe the voters can and will make good choices and I will vote for election of the PUC Commissioners and the right of the people to make their voices heard in Augusta. I ask you to vote no on acceptance of the Majority Report.

Mr. Speaker, I request a roll call.

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

Representative ROWE: Mr. Speaker, Ladies and Gentlemen of the House: I speak in favor of the motion "Ought Not to Pass." Currently, the Public Utilities Commission is a quasi-judicial body, which rules on cases involving rates, service, financing and other activities of the utilities its regulates. As you may know, the PUC currently consists of three members that are appointed by the Governor and are subject to review by the legislative committee having jurisdiction over utilities and confirmation by the legislature for staggered terms of six years. So, there is a confirmation process currently in place, a legislative confirmation process.

As the good Representative from Madawaska has indicated, the Public Utilities area is a highly technical area. It requires a great deal of judicial temperament, a great deal of intelligence, education and experience to understand and work with the complex rate structures in that area.

I don't oppose this bill as an insult to the voters of Maine. On the contrary, I think the system we have in place is fine. One of the problems that I see with this bill is that the most qualified candidates would not run. The bill would transform PUC Commissioners from little known figures in a highly technical area to political figures with political agendas. This has been evidenced in other states who have elected utility commissioners.

I would ask you to take a careful look at L.D. 57, it retains the three commissioners and I would ask you to look at how they are elected. One is elected statewide, that individual would be the Chair. The other two are elected by the voters of the two Congressional Districts in Maine.

You recall how much money was spent in the last Congressional race in the Second and First Districts, over half a million dollars. You remember how politicized it can get. I would submit that the most qualified candidates are not going to run. Is this what we want to do? You will have political contributions coming from the very utilities that these individuals will be regulating.

Other states, as I indicated, have publicly elected Commissioners. Louisiana is one of these and in that state it has been used as a stepping stone to a higher up office. Additionally, those states do not have a great track record for avoiding public controversy over utility rates. Decisions often lead to judicial intervention. Often the decisions are

appealed to the court and a judge orders an increase and overturns the PUC's decision.

I understand the frustration of the increases in electric rates. I share that frustration and that concern. Increases as high as 20 percent over the last two years have caused individual customers to conclude the the system of regulation is broken and requires a major overhaul. The reasons for the increases are complex and have caused the Public Utilities Commission, with special legislative meetings on August 27th and September 2nd of 1992. Again, I understand the frustration of the ratepayers and I am very sympathetic to the motivation behind L.D. 57. However, I would submit that this is not the way to go about correcting rate structures. In my opinion and the opinion of the Public Advocate for the state and in the opinion of several other individuals that testified at the public hearing, enactment of L.D. 57 would act as a disservice to the utility ratepayers in the State of Maine.

I ask you to support the motion "Ought Not to Pass" on L.D. 57.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I would urge you to support the Majority "Ought Not to Pass" Report on this bill. It is not, as Representative Rowe said, an insult to the intelligence of the people of the State of Maine.

When we heard this bill in committee, we certainly heard the frustration and I know many of us who were here over the last two years also heard the frustration from our constituents when their electric bills skyrocketed. Many of us signed the various petitions requiring the Public Utilities Commission to review this decision that they had made in light of the hardships that it was causing. That frustration is not sufficient reason to turn this system upside down and turn it into a political playing field.

How comfortable are we going to be to know that there are people running for the Public Utilities Commission who are receiving campaign contributions from Central Maine Power, from New England Telephone, from Maine Yankee and from other utilities? Those are where the big bucks are in elections, not from the folks that we all represent.

The process we currently have requires confirmation. We represent our constituents in that confirmation process. We also have to take some responsibility for how those decisions are reached by the Public Utilities Commission because in fact we establish the laws through our Utilities Committee and, ultimately, through the legislature.

During the hearing, we expressed our concern as a committee to the people from the Public Utilities Commission that they needed to have a more comfortable process for the public to be involved in utility rate discussions. It is a very formal process, it is very difficult for individual members of the public to really access that process and feel comfortable. Several suggestions were made, including a variety of hearings that would be held throughout the state to solicit comments from the public on issues that were concerning them, not necessarily focused on a particular rate case that was pending, but in general. Many of us felt that the decision that was made, particularly in terms of the CMP increase, was somewhat made in a vacuum

without understanding that when you make that decision to take effect in the middle of winter, you are going to impact people more significantly than if the same rate increase had happened another time of the year.

I believe as a member of that committee that the Public Utilities Commission folks did hear our concerns and I believe that there will be some changes. If not, maybe we will need to revisit this issue in the future but I do not believe that this is the appropriate time and I am very concerned about what the process would lead to so I would urge to support the Majority Report.

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

Representative LEMKE: Mr. Speaker, Ladies and Gentlemen of the House: I was very impressed by the well-reasoned maiden address given by the Representative from Madawaska. I will not replicate his arguments, he did it better than I could and I don't want to prejudice any chance he may have for success.

I would like to say that I view this as a direct democracy bill. As such, I find it quite easy to support it. The good Representative from Wiscasset, with whom I often agree, I disagree with when she says this is not the appropriate time. Ladies and gentlemen of the House, if there ever were an appropriate time to vote for a direct democracy bill, it is today, it is now. I am a little bit bemused by arguments that have been made on this and other actions on bills that we cannot trust the people or the people are not sufficiently informed or the people represent mob rule and so forth. This is, at last check at least, a representative government. I do believe in democracy, I have sufficient faith in the people to support this legislation and I would ask you to do so as well. That will send the right message to the people of the State of Maine so I urge you to vote against the Majority "Ought Not to Pass" Report.

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

Representative HEESCHEN: Mr. Speaker, Members of the House: Anybody who knows me knows that I have a large interest in utility matters and the Public Utilities Commission.

There may be someone else in this body who has spent as much time at the Public Utility Commission as I have but I am not sure that is the case.

I have been involved in intervening before the Public Utility Commission in a number of substantial cases, one being the infamous Hydro-Quebec case and two subsequent rate cases. I have experienced the frustration of dealing with the Public Utility Commission but I understand that frustration, I also understand the complexities and the burden of the kinds of cases that are coming before it.

I, too, am somewhat dismayed by actions of the current Commission. However, I truly believe it is the shared responsibility of the Governor, of this legislature, the Utilities Committee and the other body, to carefully review the qualifications of commissioners. I also believe it is the responsibility of this body and the other body to carefully consider how the PUC itself operates.

I do not believe that electing Public Utility Commissioners would get at the root problem, which is that of citizen access. That is a problem that I have experienced. There is a certain frustration

about the difficulty of dealing with these complex issues but electing commissioners would in no way address this problem. I have a litany of ideas on how to improve the citizen access but this is not the proper place to discuss that. I have proposed legislation in the past that has worked toward that. I would urge your support of the "Ought Not to Pass" Report.

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 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. 43

YEA - Adams, Aikman, Anderson, Ault, Bailey, H.; Barth, Beam, Bennett, Bowers, Bruno, Cameron, Campbell, Carroll, Cashman, Cathcart, Chase, Clark, Clukey, Coles, Constantine, Cote, Cross, Daggett, Donnelly, Dore, Driscoll, Erwin, Faircloth, Farren, Foss, Gamache, Gean, Greenlaw, Gwadosky, Hale, Hatch, Heesch, Heino, Hichborn, Hillock, Hoglund, Holt, Hussey, Joseph, Kerr, Kilkelly, Kneeland, Kontos, Kutasi, Larrivee, Lemont, Lindahl, Look, Lord, MacBride, Marsh, Marshall, Michael, Michaud, Mitchell, E.; Morrison, Murphy, Nash, Nickerson, Norton, O'Gara, Paradis, P.; Pendexter, Pendleton, Pineau, Pinette, Plowman, Poulin, Pouliot, Quint, Rand, Reed, G.; Reed, W.; Richardson, Ricker, Robichaud, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, K.; Strout, Sullivan, Swazey, Taylor, Townsend, E.; Townsend, L.; Tracy, Walker, Wentworth, Whitcomb, Winn, Young, Zirkilton.

NAY - Ahearne, Aliberti, Brennan, Caron, Carr, Clement, Coffman, Dexter, DiPietro, Farnum, Gould, R. A.; Gray, Jalbert, Johnson, Joy, Ketterer, Lemke, Libby James, Melendy, Mitchell, J.; Oliver, Pfeiffer, Plourde, Stevens, A.; Tardy, Tufts, Vigue.

ABSENT - Bailey, R.; Carleton, Chonko, Cloutier, Dutremble, L.; Farnsworth, Fitzpatrick, Jacques, Libby Jack, Lipman, Martin, H.; Nadeau, Ott, Thompson, Townsend, G.; Treat, True, The Speaker.

Yes, 106; No, 27; Absent, 18; Paired, 0; Excused, 0.

106 having voted in the affirmative and 27 in the negative with 18 being absent, the Majority "Ought Not to Pass" Report was accepted in concurrence.

#### TABLED AND TODAY ASSIGNED

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

Bill "An Act to Promote Electronic Transfer of Funds and Other Information System Improvements in State Government" (H.P. 845) (L.D. 1150)



- In House, referred to the Committee on **State and Local Government**.

- In Senate, referred to the Committee on **Human Resources** in non-concurrence.

TABLED - April 6, 1993 by Representative JOSEPH of Waterville.

PENDING - Further Consideration.

The House voted to recede and concur.

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(Off Record Remarks)

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Representative Farnum of South Berwick was granted unanimous consent to address the House:

Representative FARNUM: Mr. Speaker, I was in my seat on April 6, 1993 and voted nay to L.D. 318, Roll Call #39. The vote was not recorded so I wish to have it recorded.

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

**REPORTS OF COMMITTEES**

**Ought to Pass as Amended**

Representative CLARK from the Committee on **Utilities** on Bill "An Act to Amend the Charter of the Newport Water District" (EMERGENCY) (H.P. 705) (L.D. 957) reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-134)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-134) was read by the Clerk and adopted.

Under suspension of the rules, the bill was a read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-134) and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

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On motion of Representative Vigue of Winslow, Adjourned at 1:20 p.m. until Monday, April 12, 1993, at four o'clock in the afternoon.

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