

# MAINE STATE LEGISLATURE

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

**VOLUME II**

**FIRST REGULAR SESSION**

**House of Representatives**  
May 17, 1993 to July 14, 1993

ONE HUNDRED AND SIXTEENTH MAINE LEGISLATURE  
FIRST REGULAR SESSION  
56th Legislative Day  
Monday, May 24, 1993

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

Prayer by Pastor William S. Johnson, First Baptist Church of Pittsfield.

National Anthem by the Cony High School Madrigals, Augusta.

The Journal of Friday, May 21, 1993, was read and approved.

**SENATE PAPER**

**Non-Concurrent Matter**

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Protect State Parks (H.P. 176) (L.D. 228) which was passed to be engrossed as amended by Committee Amendment "A" (H-92) as amended by House Amendment "A" (H-360) thereto in the House on May 19, 1993.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-92) as amended by Senate Amendment "A" (S-185) thereto in non-concurrence.

On motion of Representative Mitchell of Freeport, talked pending further consideration and later today assigned.

**PETITIONS, BILLS AND RESOLVES  
REQUIRING REFERENCE**

The following Bills 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:

**Education**

Bill "An Act to Establish the Maine Youth Apprenticeship Program" (H.P. 1136) (L.D. 1536) (Presented by Representative MITCHELL of Vassalboro) (Cosponsored by Senator AMERO of Cumberland and Representatives: AIKMAN of Poland, AULT of Wayne, CARROLL of Gray, GWADOSKY of Fairfield, LIBBY of Buxton, MARTIN of Eagle Lake, WHITCOMB of Waldo, Senators: BUTLAND of Cumberland, CAHILL of Sagadahoc, DUTREMBLE of York) (Governor's Bill)

Ordered Printed.  
Sent up for Concurrence.

**Housing and Economic Development**

Bill "An Act to Establish a Development Authority for Loring Air Force Base" (EMERGENCY) (H.P. 1137) (L.D. 1537) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by Senator PARADIS of Aroostook and Representatives: AHEARNE of Madawaska, ANDERSON

of Woodland, BAILEY of Township 27, CLUKEY of Houlton, DONNELLY of Presque Isle, GWADOSKY of Fairfield, JOY of Island Falls, KNEELAND of Easton, MacBRIDE of Presque Isle, MARTIN of Van Buren, MICHAUD of East Millinocket, PARADIS of Augusta, PINETTE of Fort Kent, ROBICHAUD of Caribou, THOMPSON of Lincoln, WHITCOMB of Waldo, YOUNG of Limestone, ZIRNKILTON of Mount Desert, Senators: CAHILL of Sagadahoc, CARPENTER of York, DUTREMBLE of York, KIEFFER of Aroostook, LUDWIG of Aroostook) (Governor's Bill)

Ordered Printed.  
Sent up for Concurrence.

**ORDERS**

On motion of Representative AHEARNE of Madawaska, the following Joint Resolution: (H.P. 1138) (Cosponsored by Speaker MARTIN of Eagle Lake, President DUTREMBLE of York and Representatives: GWADOSKY of Fairfield, PARADIS of Augusta, WHITCOMB of Waldo, ZIRNKILTON of Mount Desert, Senators: BUSTIN of Kennebec, CAHILL of Sagadahoc, CARPENTER of York, ESTY of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

**JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES TO URGE THE RETENTION OF SMALL-ISSUE INDUSTRIAL DEVELOPMENT BONDS**  
WE, your Memorialists, the Members of the One Hundred and Sixteenth Legislature of the State of Maine, now assembled in the First Regular Session, most respectfully present and petition the President and the Congress of the United States, as follows:

WHEREAS, effective July 1, 1992, federal law eliminated the tax-exempt status for small-issue industrial development bonds sold by states to provide capital at reduced interest rates for establishment and expansion of manufacturing enterprises; and

WHEREAS, the availability of small-issue industrial development bonds is critical to our State's economic development, providing expansion, diversification of the manufacturing sector and quality jobs, protecting industry from foreign competition and encouraging productivity, capacity and quality critical to the long-term stability of the State's manufacturing base; and

WHEREAS, in the past 8 years, small-issue industrial development bonds have resulted in investments of approximately \$500,000,000 in the State and the retention or creation of over 35,000 jobs and have enhanced the tax base of municipalities throughout the State; and

WHEREAS, issuance of small-issue industrial development bonds for United States manufacturers is an important investment that protects and strengthens manufacturing entities, provides quality jobs, helps to ensure that jobs are retained in the United States and not exported overseas and assists in reducing the trade deficit; now, therefore, be it

**RESOLVED:** That We, your Memorialists, respectfully recommend and urge the President and the Congress of the United States to take action to enact legislation that will permanently extend the authority to issue small-issue bonds under Section 144 of the Internal Revenue Code of 1986, as amended, so that small-issue industrial development bonds will again be available; and be it further

**RESOLVED:** That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation.

Was read and adopted and sent up for concurrence.

**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Make State Drug Testing Standards for Marijuana Consistent with Federal Standards" (H.P. 1011) (L.D. 1357)

Signed:

Senators: HANDY of Androscoggin  
LUTHER of Oxford

Representatives: CHASE of China  
SULLIVAN of Bangor  
ST. ONGE of Greene  
COFFMAN of Old Town  
LINDAHL of Northport  
RUHLIN of Brewer

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-381) on same Bill.

Signed:

Representatives: LIBBY of Buxton  
AIKMAN of Poland

Reports were read.

Representative Ruhlin of Brewer moved that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Aikman.

Representative AIKMAN: Mr. Speaker, Men and Women of the House: I request a roll call and I hope you vote against the pending motion.

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

A vote of the House was taken and more than one-fifth of the members present and voting having

expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of Representative Ruhlin of Brewer 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. 119

YEA - Adams, Ahearne, Aliberti, Anderson, Beam, Bowers, Brennan, Cameron, Caron, Carroll, Cashman, Chase, Chonko, Clark, Clement, Cloutier, Coffman, Coles, Constantine, Cote, Daggett, DiPietro, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hoglund, Hussey, Jacques, Jalbert, Johnson, Kerr, Kilkelly, Kontos, Lemke, Lindahl, Lord, Marsh, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Murphy, Nadeau, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Plourde, Pouliot, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Spear, Stevens, K.; Strout, Sullivan, Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Vigue, Walker, Wentworth, Winn.

NAY - Aikman, Barth, Birney, Bruno, Campbell, Carleton, Clukey, Cross, Dexter, Donnelly, Farnum, Farren, Foss, Gamache, Greenlaw, Hillock, Joseph, Joy, Kneeland, Kutasi, Libby Jack, Libby James, Lipman, Look, MacBride, Marshall, Nash, Nickerson, Norton, Pendexter, Pendleton, Plowman, Poulin, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Stevens, A.; Taylor, Thompson, True, Tufts, Whitcomb, Young, Zirkilton.

ABSENT - Ault, Bailey, H.; Bailey, R.; Bennett, Carr, Cathcart, Heino, Holt, Ketterer, Larrivee, Lemont, Martin, H.; Morrison, Ott, Tardy, The Speaker.  
Yes, 89; No, 46; Absent, 16; Paired, 0; Excused, 0.

89 having voted in the affirmative and 46 in the negative with 16 being absent, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

**Divided Report**

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act to Require that the Clerk-of-the-works on State Construction Projects be Employed by the Owner, not the Architect" (H.P. 219) (L.D. 287)

Signed:

Senators: BUTLAND of Cumberland  
BERUBE of Androscoggin  
ESTY of Cumberland

Representatives: LOOK of Jonesboro  
GRAY of Sedgwick  
WALKER of Blue Hill  
ROWE of Portland  
DUTREMBLE of Biddeford

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment

"A" (H-382) on same Bill.

Signed:

Representatives: BENNETT of Norway  
AHEARNE of Madawaska  
YOUNG of Limestone  
JOSEPH of Waterville  
KILKELLY of Wiscasset

Reports were read.

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

Mr. Speaker, Men and Women of the House: This piece of legislation was brought to us because of the concern of many people as far as public projects were concerned and the Clerk-of-the-Works and whereas there were delays in some of these public projects.

The original bill addresses some of these questions. Because the Clerk-of-the-Works did not or does not work for the owner, there is never one person in charge of looking out for the owner's interests across the project spectrum. However, as we worked on this piece of legislation, we reached a compromise. Some of us on the committee accepted that compromise position and basically this compromise position is that the reports that the architect does receive from the Clerk will now go to the owner so there will be a minimal amount of accountability.

The committee heard testimony or received testimony from the Kennebec Valley Technical College. In this testimony and letter it said, "I support the change and believe the state would be better served if the Clerk were an employee of the owner." In this letter, they were referring to the original bill. "This change would result in better use of limited resources and would increase accountability for the project."

As well, we heard from the Kittery School Department and the Kittery School Department letter says, "The bottom line is one of accountability because the Clerk does not work for the owner, there is never one person in charge."

Over and over again we did hear of extended projects, more costly projects of public monies and, therefore, this compromise position is offered for you to vote on.

I urge you to support the Minority "Ought to Pass" Report.

Representative Tracy of Rome requested a roll call vote.

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Campbell.

Representative CAMPBELL: Mr. Speaker, Men and Women of the House: I am the prime sponsor of this bill and I would like to explain a few things about the bill to you.

For those members of the House who aren't familiar with the position of Clerk-of-the-Works, the Clerk oversees all aspects of the project from preparation of groundbreaking through installation of each of the construction details and to the final punch list. The Clerk is a crucial component ensuring proper implementation of product, compliance with working drawing specifications and contract documents. Essentially, the Clerk-of-the-Works

becomes the on-site eyes and ears of — and this becomes the question — the architect or the owner. My concerns are presented on behalf of the owner. It has been brought to my attention by my constituents, other Representatives on behalf of their constituents, and by other concerned owners that the present structure of relationships often become problematic.

On a project in my district, events such as material substitutions, specification changes and design alterations (without the knowledge of the building committee) has created almost an adversarial situation between all the parties. With these types of occurrences, elements of mistrust are almost inevitable.

As the good Representative from Waterville mentioned earlier, the original bill recommended that the employment of the Clerk-of-the-Works be changed from being employed by the architect engineer and paid for by the owner to the Clerk's employment by the owner, selected by the owner and the architect engineer, with reporting to occur directly to both the owner and the architect engineer. This became a bit of a problem as we were working down through trying to decide the direct reporting process and how best to handle this.

Let me tell you a little bit about some of the duties of the players. The owner obviously is the owner of the building, they establish a building committee and they become responsible for paying for the projects as well as the long-term maintenance of this building. Another player becomes BPI or now General Services Administration which is the state organization that also helps guide the owners through this process. The architect engineers design the project, they do the drawings and the specifications and obviously the contractor constructs.

The problems become quite evident, especially in this marginally profitable economic atmosphere that all components, architects, engineers, and contractors work under. The contractor is forced, because of the low bid, to do the best he can to remain profitable. The architect designing sometimes has the design deficiencies and in that process they are, in most cases, forced to have change orders and, unfortunately, the owner becomes the recipient of those change orders and the deficiencies created by the architects are then paid for by the owner. In all cases, the owner, especially in state contracts, become us, the legislature and the taxpayer.

The solution was the bill as proposed, but the alternative becomes the amended bill and the amended bill simply ensures that the report that is given to the architect gets handed to the owner. At least this is a small step towards another person having eyes and ears on site and acting on behalf of the owner. So simply put, the amended bill allows that the same report that goes to the architect go to the owner.

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

Representative WALKER: Mr. Speaker, Men and Women of the House: There are good bills and there are bad bills. There are smart bills and there are dumb bills. This bill, despite the plethora of sponsors, is a bad, dumb bill.

There are a few, very few, horror construction stories across this state, but most, and I stress most, projects proceed smoothly and finish on time. The few horrors are the result of bad communication

between building committees and architects. This bill will not facilitate communication, quite the contrary.

This bill would change the whole nature of construction for the worst. Presently the lines of authority and responsibility on a construction project are clear, the building committee hires an architect to design and build the building. As part of a team, the architect hires a Clerk-of-the-Works to be the eyes and ears and the mouth on the project. The Clerk is hired and works for the architect. If the building committee is having a problem with the way a project is moving along, that building committee should talk to the architect, reprimand the architect or fire the architect. Redefining the duties of the Clerk-of-the-Works is not the answer. No man can serve two masters, neither can a Clerk-of-the-Works.

I urge you to vote against the "Ought to Pass" Report. Please push red.

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

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

To Representative Campbell, I understand that architects are paid a percent of the cost of a project, does that include the Clerk-of-the-Works' cost?

The SPEAKER: Representative Simoneau of Thomaston has posed a question through the Chair to Representative Campbell of Holden who may respond if he so desires.

The Chair recognizes that Representative.

Representative CAMPBELL: Mr. Speaker, Men and Women of the House: Yes, the contract fees are on a percentage basis, percentage of original contract plus change orders and the employment of the Clerk is also included.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: I am very sorry that Representative Walker thinks this is a dumb bill because I want to tell you, all you have to do is go through the scenario that was laid out for KV-Tec and you would not agree that any attempt to improve the current situation we have there would be a dumb bill.

In KV-Tec's situation, and I am a member of the advisory committee of that college, I serve as chairman currently, and I am a member of the building committee and have been for the last three new expansions that we have done at that school, we are now in the middle of an expansion that will be called Carter Hall ironically, after Representative Don Carter, a former member of this body. We hired an architectural firm called Osaki Associates who are based out of Japan. After the project was started and the designs were drawn, the two principle architects that were involved in our project left Osaki Associates. So, you had this huge corporation of architects that were the original people that we had awarded our bid to and who are now no longer directly responsible. We have two architects from the State of Maine who have now taken over. That was problem number one.

Talk about communication — I would hate to disagree with the good Representative from Blue Hill but communication is something that we went way

overboard on. I've got to tell you, the entire project has become not only a professional but a personal embarrassment to all involved.

When it became clear to us that the 750 new students that were going to be coming in the first of January — I want to remind everybody that this job was bid for a November 9, 1992 completion date, November 9, 1992, so we foolishly believed that January 7th of 1993 we would be able to enroll 750 plus new students in our new facility. It became painfully clear to some of us on the building committee that we had some serious problems on site. So, we arranged a tour with the Clerk-of-the-Works who had been a Clerk-of-the-Works for one of our other projects, an outstanding fellow, very capable and very dedicated. We proceeded to go around the building and some of us asked questions, what the delays were, what the problems were and he laid them out to us in a very honest and I think unbiased way. Upon the completion of our tour, we had scheduled a meeting with all our sub-contractors, the architect, the building committee and the State of Maine General Services to sit down and discuss the matter. A couple of days later, the Clerk-of-the-Works received a letter from the architectural firm stating that, if he ever did anything to make them look bad in front of state officials again, he would be fired immediately.

There was no discussion about communication, there was no discussion about the accuracy of the statements that he made to us and the way he answered our questions. The fact of the matter was these architects were more concerned that they would look bad, that their reputation would be harmed than they were about getting the job done.

Far be it for me to remind the members of this House that that school is being paid for by our constituents' tax dollars. I must say that the building committee has taken that charge very seriously. I think the Clerk-of-the-Works took that charge very seriously but I have got to tell you in all honesty, the architectural firm as well as the contractor, are a disgrace. The reason the architects are a disgrace is because they never stayed on top of the job. They really didn't have much to lose because they got paid up-front. Their money is guaranteed. They don't have anything to lose. The contractor who we had used before is the son of the former owner of the business and, unfortunately, does not have the experience and the ability to do anywhere near the type of work that his dad did, besides the fact he had taken on another vocational building construction over in Washington County and I believe had spread himself way too thin.

Now, from the time the letter was received (and we have a copy of that letter by the way) threatening the Clerk-of-the-Works' job by the architects because he answered our questions, I have got to tell you, communications broke down. It was very difficult for a person as dedicated as our Clerk-of-the-Works was to answer our questions accurately and honestly when he had been threatened with his job if he continued to do so.

What Representative Campbell's bill tries to do is indeed improve on that line of communications. I have to inform you that as of today, as of today, the building that was bid for November 9, 1992 completion date is still not completed, it is still not finished and it looks like, if we get it by the end of June, we will be doing good, notwithstanding the litigation

that is going to come out of this and the direction of the building committee that we do not accept ownership of this building until it is done in its entirety, until the punch list has gone through in its entirety, until the job is done that the taxpayers of this state paid for. I have got to tell you that in a time of hard money, a time of people encouraging us to invest money in our people to give them the training they need to provide the jobs that the system as it now works, whether it is one or two times a year, whether it is the horror story that the good Representative talked about, is unacceptable. It is unacceptable to the people involved in KV-Tec, it should be unacceptable to the people of this legislature and, by all means, it certainly should be unacceptable to the taxpayers of this state.

Unfortunately, I don't think this bill goes anywhere near far enough that it should to try to address the problem. It makes a step in the right direction. I hope and pray that no one ever goes through this again because I have got to tell you, not only the building committee but the faculty and staff have been very discouraged about this whole process. We had planned on having our graduation (which occurred last Friday night) in our new building — not even close — we had to have it at Thomas College.

The place that it broke down, and you want to talk about communications, I got everybody together, we went through every sub-contractor to see what the problem was and everyone blamed the other one. The flooring guy blamed the plumber, the plumber blamed the electrician, right around the horn. My statement at the time was, okay, let's forget about all that, what do we do, how do we put this thing together so that we can get done in a reasonable length of time and, hopefully, have our new students in? The date went from November 9th to the end of November to the middle of December to two days after Christmas. They said two days after Christmas, you won't be able to move in. We said, you get this building done two days after Christmas, I guarantee we will move in if it takes every student on this campus and every volunteer we can get, we will be moved into the new building. As I told you, it is the end of May coming into June and we are still not in that building.

Someone, somewhere has to be looking out for the owner's interest. Representative Walker said it exactly right, you cannot serve two masters. The Clerk-of-the-Works is paid for by the architect, that should be changed. It should be paid for by someone other than the architect because his job is not only to make sure things go according to the architect's wishes but a Clerk-of-the-Works was originally there to make sure the owner's interests was represented, the owner — that is the taxpayers of this state, that is the people you and I were elected to represent. To pass this off as a bad bill, I don't think is appropriate at all. It is one small step into dealing with a major problem you and I are going to have to deal with pretty soon.

Aside from that fact, I think somewhere along the line we are going to have to start taking a look at how architects are drawing and planning buildings in this state. They are starting to rival the tombs of the pharaoh's for looks and they are forgetting about practicability, maintenance, use, long-term use, and getting the most you can out of your dollar without archways and valleys and fancy doors and mosaics which have nothing to do with the quality of

education that is offered but we have gone right off the beaten path here. It seems like every new architect wants to make a mausoleum to himself before he passes on from this earth and you and I are paying for that. That issue aside, we certainly do need someone to look out for our interests. This bill is one small step. I don't believe it is sufficient but I don't believe it is a bad bill either and I don't think your people, when they find out it's their dollars being wasted because of lack of communication, will believe it is a bad bill either.

I strongly urge, if you have any consideration at all for that communication that the good Representative from Blue Hill talked about and any concern for accountability to the owner in a project that is funded by the taxpayers' dollars, you will vote for the Minority Report.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: I was on the Minority "Ought Not to Pass" Report and I just want to explain why. I agree with a lot of what Representative Walker says, I also agree with a lot of what Representative Jacques and others have said. I know there is a problem.

My concern was that this is not the way to address the problem, making the Clerk-of-the-Works report to the owner and the architect. I think there is the issue of the two masters. I don't know if it is appropriate but I just want to let you know one of the reasons I voted "Ought Not to Pass" was there is another L.D. which State and Local is carrying over, L.D. 1494, An Act to Require the Utilization of an Owner's Representative on State Government Construction Contracts. This is also sponsored by Representative Campbell.

I applaud Representative Campbell's efforts in bringing this issue to the attention of the State and Local Government Committee. I think L.D. 1494 is the better vehicle to address the problem. That was one of the prime reasons why I went with the "Ought Not to Pass" Majority Report.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: Representative Rowe of Portland has told you about an alternative approach to this problem, but those of us who agreed to the compromise amendment feel that this is just one small step to resolve this problem prior to the next legislative session.

We are now talking about the owner, the people of Maine. We are talking about the taxpayers of Maine. The boondoggles that you have heard about can no longer go on with taxpayer dollars. This body, the Maine Legislature, must and has a responsibility to respond to these types of problems that you have heard about today. This legislature should not be protecting one profession over another.

I urge you to vote for the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Campbell.

Representative CAMPBELL: Mr. Speaker, Men and Women of the House: I just want to relate two small stories about the relationship between the clerks and the owners. In my district, the owners were seeing a few things going wrong and they requested a report from the Clerk-of-the-Works. The Clerk-of-the-Works then was told by the architect to change that report

because it is now going to the owner.

In another instance more relative to what the good Representative from Waterville, Representative Jacques spoke to, the Clerk-of-the-Works' funds ran out on the KV-Tec project. The Clerk was then let go by the architect. The owner brought the Clerk back under its own employee. Even though they paid for it once before, the Clerk was let go because the dollars had run out and they were down to the crunch. The crunch was the design deficiencies and the change orders and this person, the Clerk-of-the-Works, was the only one that knew all sides of the story.

I would recommend that we vote in favor of the motion.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Joseph of Waterville that the House accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 120

YEA - Ahearne, Aikman, Aliberti, Anderson, Barth, Beam, Bennett, Birney, Bruno, Cameron, Campbell, Caron, Cashman, Chase, Chonko, Clark, Clement, Cloutier, Clukey, Coffman, Constantine, Cote, Cross, Dexter, DiPietro, Donnelly, Dore, Erwin, Faircloth, Farnum, Farren, Fitzpatrick, Foss, Gamache, Gean, Gould, R. A.; Greenlaw, Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hillock, Hussey, Jacques, Jalbert, Johnson, Joseph, Joy, Kerr, Kilkelly, Kneeland, Kontos, Kutasi, Lemke, Libby Jack, Libby James, Lindahl, Lipman, Lord, MacBride, Marsh, Marshall, Melendy, Michael, Michaud, Murphy, Nadeau, Nash, Nickerson, Norton, O'Gara, Paradis, P.; Pendexter, Pineau, Pinette, Plourde, Plowman, Poulin, Pouliot, Rand, Reed, G.; Reed, W.; Ricker, Robichaud, Rotondi, Ruhlin, Rydell, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Taylor, Thompson, Townsend, G.; Townsend, L.; Treat, True, Tufts, Vigue, Whitcomb, Young, Zirkilton.

NAY - Adams, Bowers, Brennan, Carroll, Daggett, Dutremble, L.; Farnsworth, Gray, Look, Mitchell, E.; Mitchell, J.; Richardson, Rowe, Saint Onge, Saxl, Townsend, E.; Tracy, Walker, Wentworth, Winn.

ABSENT - Ault, Bailey, H.; Bailey, R.; Carleton, Carr, Cathcart, Coles, Driscoll, Heino, Hoglund, Holt, Ketterer, Larrivee, Lemont, Martin, H.; Morrison, Oliver, Ott, Pendleton, Pfeiffer, Tardy, The Speaker.

Yes, 109; No, 20; Absent, 22; Paired, 0; Excused, 0.

109 having voted in the affirmative and 20 in the negative with 22 absent, the Minority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-382) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

**Divided Report**

**Later Today Assigned**

Majority Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-388) on Bill "An Act to Eliminate the Prescription Requirement for Hypodermic Syringes" (H.P. 587) (L.D. 791)

Signed:

Senators: PARADIS of Aroostook  
BALDACCI of Penobscot

Representatives: TREAT of Gardiner  
BRENNAN of Portland  
BRUNO of Raymond  
PENDLETON of Scarborough  
GEAN of Alfred  
TOWNSEND of Portland  
JOHNSON of South Portland  
FITZPATRICK of Durham  
BEAM of Lewiston  
PENDEXTER of Scarborough

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

Signed:

Senator: HARRIMAN of Cumberland

Reports were read.

Representative Treat of Gardiner moved that the House accept the Majority "Ought to Pass" Report.

On further motion of the same Representative, tabled pending her motion that the House accept the Majority "Ought to Pass" Report and later today assigned.

**Divided Report**

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Decrease Traffic Accidents through Creation of an Intermediate License for Minors" (H.P. 617) (L.D. 832)

Signed:

Senators: GOULD of Waldo  
PARADIS of Aroostook  
BRANNIGAN of Cumberland

Representatives: HUSSEY of Milo  
MARTIN of Van Buren  
BAILEY of Township 27  
PLOURDE of Biddeford  
STROUT of Corinth  
RICKER of Lewiston  
BAILEY of Farmington

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-391) on same Bill.



Signed:

Representatives: DRISCOLL of Calais  
O'GARA of Westbrook  
MELENDY of Rockland

Reports were read.

Representative Plourde of Biddeford moved that the House accept the Majority "Ought Not to Pass" Report.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I thank Representative Plourde for making that motion.

In fairness to the sponsor and to the committee, I would like you to know that since this was reported out, we have decided to let it go this way and the sponsor is going to work on another piece of legislation that more closely fits the opinion of the Transportation Committee.

Subsequently, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

**Divided Report**

**Later Today Assigned**

Majority Report of the Committee on Banking and Insurance reporting "Ought Not to Pass" on Resolve, Requiring an Audit of the Functions and Records of Workers' Compensation Insurers (H.P. 781) (L.D. 1054)

Signed:

Senators: McCORMICK of Kennebec  
CAREY of Kennebec  
KIEFFER of Aroostook

Representatives: PINEAU of Jay  
HALE of Sanford  
TRACY of Rome  
CARLETON of Wells  
RAND of Portland  
KUTASI of Bridgton  
JOSEPH of Waterville  
TOWNSEND of Canaan  
ERWIN of Rumford

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-403) on same Bill.

Signed:

Representative: CAMPBELL of Holden

Reports were read.

Representative Pineau of Jay moved that the House accept the Majority "Ought Not to Pass" Report.

On further motion of the same Representative, tabled pending his motion that the House accept the Majority "Ought Not to Pass" Report and later today

assigned.

**CONSENT CALENDAR**

**First Day**

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

(H.P. 309) (L.D. 397) Bill "An Act to Ensure Equitable Treatment of Manufactured Home Owners" Committee on Housing and Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (H-397)

(H.P. 553) (L.D. 749) Bill "An Act to Provide for Affordable Cooperative Housing in the State" Committee on Housing and Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (H-398)

(H.P. 945) (L.D. 1274) Bill "An Act to Maintain Confidentiality of Medical Information Reported to the Department of Human Services" Committee on Human Resources reporting "Ought to Pass"

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

**CONSENT CALENDAR**

**Second Day**

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

(S.P. 206) (L.D. 677) Bill "An Act to Provide for Interstate Cooperation Agreements between Neighboring Municipalities"

(S.P. 225) (L.D. 696) Bill "An Act to Reform and Reestablish the Commission on Governmental Ethics and Election Practices" (C. "A" S-168)

(S.P. 213) (L.D. 684) Bill "An Act Concerning the Purchase of Liquor by Establishments Licensed to Sell Liquor on Premises" (C. "A" S-170)

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

**PASSED TO BE ENGROSSED**

Bill "An Act to Continue the 2-cent Gas Tax Increase" (EMERGENCY) (H.P. 1129) (L.D. 1530)

Was reported by the Committee on Bills in the Second Reading, read the second time, Passed to be

Engrossed, and sent up for concurrence.

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**PASSED TO BE ENGROSSED**

**As Amended**

Bill "An Act Regarding Certain Property of the Department of Mental Health and Mental Retardation" (H.P. 250) (L.D. 329) (C. "A" H-389)

Bill "An Act Related to Medical Treatment Decisions for Psychotic Disorders" (H.P. 983) (L.D. 1314) (C. "A" H-392)

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

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**PASSED TO BE ENGROSSED**

**As Amended**

Resolve, to Expand the Scope of the Maine Committee for Global Education (H.P. 1111) (L.D. 1507) (C. "A" H-379)

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

Representative Kontos of Windham offered House Amendment "A" (H-394) and moved its adoption.

House Amendment "A" (H-394) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-379) and House Amendment "A" (H-394) and sent up for concurrence.

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**PASSED TO BE ENGROSSED**

**As Amended**

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide the Governor with a Line-item Veto (H.P. 948) (L.D. 1277) (H. "A" H-393 to C. "A" H-338)

Bill "An Act to Protect Maine Citizens From the Effects of Environmental Tobacco Smoke" (H.P. 666) (L.D. 904) (C. "A" H-358)

Bill "An Act to Make Allocations from the Transportation Safety Fund for the Fiscal Years Ending June 30, 1994 and June 30, 1995" (EMERGENCY) (S.P. 158) (L.D. 523) (Governor's Bill) (C. "A" S-171)

Bill "An Act Requiring a Guide for Nonresidents Hunting in Maine" (S.P. 400) (L.D. 1231) (C. "A" S-172)

Bill "An Act to Require that All Interest on Escrowed Assessments on Utilities Be Used for the Benefit of the Public Utilities Commission and the Office of the Public Advocate" (S.P. 417) (L.D. 1326)

(C. "A" S-173)

Resolve, to Clear Title to Land Owned by James Mercier in Unity, Maine (S.P. 433) (L.D. 1343) (C. "A" S-174)

Bill "An Act to Amend the Liquor Laws" (S.P. 194) (L.D. 630) (S. "A" S-184 to C. "A" S-169)

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

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**ENACTOR**

**Emergency Measure**

**Later Today Assigned**

An Act to Clarify Responsibility for Workers' Compensation Coverage for Town Forest Fire Wardens and Laborers Hired for Forest Fire-fighting Activities (H.P. 976) (L.D. 1307) (C. "A" H-285)

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

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

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**ENACTOR**

**Later Today Assigned**

An Act to Amend Maine's Unclaimed Property Act (S.P. 185) (L.D. 621) (C. "A" S-132)

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

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

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**ENACTOR**

**(Reconsidered)**

An Act to Amend the Maine Civil Rights Law Regarding Violations of Constitutional Rights (S.P. 355) (L.D. 1069) (C. "A" S-136)

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

On motion of Representative Cote of Auburn, under suspension of the rules, the House reconsidered its action whereby L.D. 1069 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-395) and moved its adoption.

House Amendment "A" (H-395) was read by the Clerk.

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

Representative LIPMAN: Mr. Speaker, may I inquire as to what this amendment does?

The SPEAKER: Representative Lipman of Augusta has posed a question through the Chair to Representative Cote of Auburn who may respond if she so desires.

The Chair recognizes that Representative.

Representative COTE: Mr. Speaker, Men and Women of the House: This amendment changes the method of service of an order or injunction and clarifies that the law protect against violence against persons as well as property damage.

Subsequently, House Amendment "A" (H-395) was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-136) and House Amendment "A" (H-395) in non-concurrence and sent up for concurrence.

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**ENACTOR**

**Later Today Assigned**

An Act Regarding Vessels Stored at Marinas (H.P. 481) (L.D. 618) (C. "A" H-286)

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

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

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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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**ORDERS OF THE DAY**

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, May 21, 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 to Ensure Integrity in Maine Government by Prohibiting Involvement of Constitutional Officers and the State Auditor in Political Action Committees (H.P. 613) (L.D. 828) (C. "A" H-242)

TABLED - May 20, 1993 by Representative PARADIS of Augusta.

PENDING - Passage to be Enacted.

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

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Create a Unicameral Legislature (H.P. 768) (L.D. 1035) (C. "A" H-277)

TABLED - May 20, 1993 by Representative GWADOSKY OF Fairfield.  
PENDING - Passage to be Engrossed.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I do hope that I can hold your attention for just a few minutes while I give you a few other things I would like to have you consider.

I have had several people say to me that perhaps I should just let it go now and forget it because we have enough votes to prevent it from going to referendum. That is not my point at all, that never was my point. My point is to try to get you to see that this is not a good piece of legislation.

One of the things that was mentioned in support of it was that the public would more fully understand the legislature. In a survey conducted by the Bureau of Sociological Research by the University of Nebraska, it was found that only a bare majority, 52 percent, knew that the state had a one House legislature, while 48 percent thought it was bicameral or had no idea at all. The report stated that public awareness of their legislature has not increased over time.

I wonder how well informed our citizens are about how our legislature is set up now and I wonder if they really understand what a unicameral legislature is all about.

The legislative budget for Nebraska was \$10.7 million in 1992, 75 percent of which was for salaries and benefits. According to its fiscal office, since 1977, the Nebraska Legislature's costs have increased significantly, primarily due to increase in staff.

The Nebraska fiscal office notes that the cost of the legislature is becoming a major issue in Nebraska. With very little in the way of specifics or detail, you were given an amount that this plan will save the state. I continue to maintain that the same staff the House has now will not be able to produce the research, documentation, clerical, legal and technical assistance that we all need having additional costs.

I want to remind you to make sure you understand that the figures you were given, \$4.5 million intends to do away with everybody related to the Senate in any way whatsoever — staff, legal, everybody.

From three different sources, I have three numbers and I do hope that you will listen, they are all savings but that is not my point. The sponsors of the bill suggest that at a minimum, it will be saving \$4.5 million.

From the Legislative Director's Office, we should have a fairly good hand on the figures, theirs is around \$4 million, certainly a savings, no question about it, but it is not \$4.5.

From the Office of Fiscal and Program Review, the number is \$3.4, certainly savings, but again, not \$4.5.

One of the items that was mentioned was the cost

of saving in printing. I think the first thing you have to understand, and I think most of you already know it, is that the rate that we pay for printing goes down as the number of pages go up. Conversely, which is what would happen here, the cost of printing would go up as the number of pages supposedly would go down. The number that I heard was all the way up as high as perhaps \$2 million in printing. I received a number from a body that I have an idea would know how many bills and amendments and whatever they print are and the number I got from the Senate Office is \$30,000 a year. Even for four years, we are not talking about anywhere near \$2 million.

My point is not to suggest that there would not be dollars saved if we went to unicameral. I can't argue with that, obviously I can't, but my point is, at what cost to the citizens of Maine?

In a recent edition of State Government News, U.S. Representative Doug Boreta of Nebraska conceded — by the way, this is an article in 1992, conceded "that the one House body may not restrain the impact of lobbying, pointing out that in a one House legislature, there is only one set of leadership to influence." In truth and in fact, objectionable lobbying is not the major problem in the bicameral legislature that is often assumed. Lobbyists can more easily promote desired legislation when control is only needed in one House.

To follow up on that, Professor Robert Sidik, I quoted him the other day, the Professor of Political Science at the University of Nebraska wrote an essay entitled "The Nebraska Unicameral After 50 Years." In it he wrote, I am quoting all the way through, "A general criticism of the Nebraska Legislature is that the body increasingly is unable to handle the workload of the chamber in an effective and efficient manner. The number and volume of complaints about the unicameral's inefficiency are steady and increasing. It is not surprising, therefore, that numerous proposals have been and are being considered for improving the legislative process in Nebraska." He also said, (and this is another reference to the lobbyists) this is a Professor Sidik from the University of Nebraska, "Lobbyists like the system and that makes me a little uneasy."

An interesting thought for you to consider in the contention of supporters of the two House legislature in states where this question has come up from time to time is that a one House system violates American Constitutional principles because it does not allow for the tradition of checks and balances in government. They point out that the two House system gives each and every citizen at least two people in the state legislature who will represent them and their interests, one Senator and their own Representative. Obviously, that will not be the case any longer in our state where we are always able to reach out to our Representative and our Senator.

Again, I think it is important for you that you are told that even though Nebraska's Legislature is smaller than ours presently, the fact is that they spend more and they owe more than we do and the spending continues to increase. On the other hand, our legislative budget is less than one half of one percent of state spending. Clearly, reducing the size of the structure of the legislature is not the answer to our problems here in Maine.

Finally, I want to ask you a series of "Are you sure?"

Are you sure you really understand — I am

talking about you now — that you really understand how the proposed one House legislature will work or operate in the State of Maine?

Are you sure that in spite of the fact that it took Nebraska 21 years of working and trying before they finally adopted it and in spite of the fact that others states that have been mentioned have deliberated it for years, are you sure that we are ready to send this question out to the voters in time for it to go into effect in December of 1994?

Are you really sure this is what your constituents really want?

Are you sure that the other body is really the problem or is it just a target that is easier to go after rather than some other alternatives that I mentioned the other day?

From Nebraska's own history, I conclude with their answer to their own question, why, after several defeats over 21 years, did the voters adopt it? I am not going to read them again, I gave you the other two items that were on their referendum issue last week.

Please notice that when the proponents are talking about this legislation or when Nebraska was talking about their legislation, no reference was made to better government or more efficient government. It really came down to personalities, money and the impact of other issues. Here in Maine we have had no study, no organized research, no input from the public-at-large and no attempt to educate ourselves or the public about what is involved. Lots of times since I have been here in my nine years, if we can, if we are so inclined, we occasionally give someone a vote and it really doesn't matter either way.

I beg you to believe me when I tell you that this is not one of those times. This is a serious, major decision that we are voting on and it matters to me very, very much. We are a good legislature that has done some incredibly good things for the people of Maine and I believe in their heart of hearts the people of Maine know that. I think we can work together to improve the process, correct the flaws and reduce costs. I truly believe that is what the people of Maine want.

I was handed today, and probably some of you have already received it, one of the newspaper clippings that we get from time to time here. If you haven't seen it, it is called "Nebraskan's, if you think unicameral, think small."

The senior member of the nation's only one House legislature says Maine or any other state that considers a unicameral system should keep two thoughts in mind, think small and think non-partisan.

"Accountability is the most important part", said Senator Jerome Warner now in his 31st year in the legislature.

The Speaker of the Legislature, Dennis Bark of Kimball agreed, "If it isn't non-partisan and if you don't limit the size, I don't know that you really get the advantages that can come from a unicameral system."

"Because lawmakers have so much independence", Warner says, "he doesn't think a unicameral system could be practical with more than 50 members. With more than 50, you would need some other form of internal structure, whether it be political parties which they don't have there or something else. Those structures are intended to provide discipline."

Ladies and Gentlemen of the House, I don't feel

it is necessarily my position to argue against it, although that is what I have been doing, what I do say to you is that it is the job of the sponsors to argue for it and to present legitimate, convincing arguments. I don't believe they have done that. I truly do not believe that they have done that. The numbers don't agree in three different areas. Granted, all savings, and I am not standing before you and suggesting that they are not, but they don't agree. That leaves something to be desired.

The question of the form and the structure hasn't even been discussed. The argument was for weeks we had to follow because it works in Nebraska, and the minute I mentioned last week several problems with Nebraska, sponsors got up and pointed out to you that we are not talking about Nebraska. The Nebraskan's themselves say we have to have it small. We are talking very large, only 35 less than what we have now or 151. I think there are a lot of unanswered questions.

Finally, I am about to do something I haven't done in nine years. Those of you who have been here since I have been here in the 112th will tell you that I have never gone to any legislator and said to you, I am now asking you to give me the support that I have given you in the past, but I am asking you because I have worked hard on this and I believe in what I am saying. The research I have given you is indisputable, quotes right from the sources that I have given you and I am asking for you to consider supporting me in this vote and voting so that we will not be going forward with this unicameral and not worrying about what the other body does. This is the body that should be discussing it.

I ask you very sincerely, ladies and gentlemen, to support me on this.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: I also quite sincerely believe in this piece of legislation and I will try to address what the good Representative, the other Representative from Westbrook, believes is in dispute.

There seemed to be two basic arguments which Representative O'Gara has raised, one is whether or not we are replicating the State of Nebraska here in Maine with this bill and the other relates to the overall question of checks and balances.

I would pose to you that the good Representative has sort of made my argument already by quoting from an AP story from Nebraska of May 20th which pointed out quite convincingly that the piece of legislation you have before you is for a Maine unicameral legislature, not a replication of what is created in the State of Nebraska. In that story, and the good Representative did quote from it but he did quote selectively from it, the Speaker of the Nebraska Legislature Dennis Bark said, "Critics of the unicameral say that it slid in with approval of other issues on the ballot, but I reject that. Nebraskan's are so independent minded that if they didn't like the unicameral, they would have gotten rid of it a long time ago."

The good Representative last time mentioned that pari-mutual betting was also on the ballot. Well, according to Norman Zucker's biography of George Norris, who is considered the father of unicameralism, it is pointed out that unicameralism was approved by a 93,000 vote majority whereas pari-mutual betting got 64,000 majority. So, if the

argument could be made, and I don't make it, you could say that the unicameral carried betting in Nebraska. I don't go for those kinds of arguments. I think the people in Nebraska, like Maine, know how to make up their mind on these things.

Zucker also wrote, "Unicameralism in Nebraska has proven to be a workable and responsible device of representative government. It may well become one of the most viable state political institutions yet devised to meet the needs of a changing federal system."

Now, in the same AP article that the good Representative from Westbrook quoted, it is pointed out that, yes, the Maine unicameral plan is significantly, significantly different from that of Nebraska. Nebraska's Legislature, ladies and gentlemen, has only 49 members and it is supposedly non-partisan.

Senator Jerome Warner was quoted and quoted again to you today by Representative O'Gara, so also were lobbyists. He did not quote that to you but in fact lobbyists say they like the legislature a great deal with 49 members in the State of Nebraska — of course.

In a telephone conversation with a Nebraska Secretary of State, Alan Dearborn, he said, "If you talk to Nebraska Representatives, they will say that special interests are not overly influential." Are not overly influential. In fact, Professor Sidik who also was quoted by Representative O'Gara, who is the author of "The Nebraska Unicameral After 50 Years" and is the general supporter of it said in an interview in state legislatures, "The lobbyists like it and that makes me a little uneasy." Well ladies and gentlemen, that makes me uneasy as well and that is precisely why the legislature before you is 151 members and not 49. It would not be as susceptible to the influence of special interests lobbyists.

Also, Rob Douglas in State Government News, December 1992, while favorable to unicameralism, notes that the non-partisan aspects of the unicameral legislature has evoked more debate among Nebraskan's in recent years than its unicameral structure. While perhaps non-partisanship for nomination and election may work based upon the history of Nebraska, it was not the feeling of those who drafted this bill that it would be applicable or workable for Maine and thus it is not in L.D. 1035.

With all deference to the good folks of Nebraska, I believe that these two aspects which are addressed in this bill, explain why states have not copied the model in Nebraska and why this would be an improved superior version of unicameralism.

There seems to be a lot of Nebraska bashing going on recently. I don't know if Nebraska has become the functional equivalent in the State of Maine of Iraq or the Evil Empire, but in fairness to Nebraska having pointed out the major differences, I would like to quote very briefly seven major points, which the Secretary of State made to me from Nebraska. I will mention three, I think they should be on the Record. One is "that two international groups in the past ten to fifteen years have studied all the legislative bodies in the world and rank Nebraska's Legislature number one in accountability to the people it represents." He is very strong on the issue of accountability which I am as well on this. "Citizens and media," he says, "are able to track legislation easier, don't have to follow both bodies or competing bills. Agencies save with lobbying only one body. While lobbyists have an easier time

focusing on one body, it is easier to watch over the lobbyists. There is no 'you pass this bill and they will kill it' activity."

On the issue of money and costs, "Solvency of Nebraska is very high, it is one of six states in the United States not experiencing budget difficulties. Costs of legislature is reduced, actions are more efficient." We can quote back and forth from all kinds of learned studies, and I assume you expect that of me but this is from the Secretary of State of Nebraska and I think it should carry some weight.

The good Representative from Westbrook seems to think that he was blindsided in some way, that the argument is made and made again today that this is not a replication of the State of Nebraska. I appreciate the fact that the good Representative might not want to have read all of the various articles I have written over two years or peruse the statements that were made on the floor two years, but if he looks at them, the same point has been made and made repeatedly, this is nothing new. This is a major argument for unicameralism, Maine unicameralism.

The other argument, and what I consider to be a more significant argument, is the argument regarding checks and balances. It is my view that the unicameral legislature proposed, which does away with the internal checks and balances which now the legislature operates under, which the other two branches of government do not operate under, Executive and Judicial, that in fact this will strengthen checks and balances where checks and balances were meant to be and should be between the three branches of government, Legislative, Judicial and Executive.

The handout that I have given you, and mercifully this will be one of the last that you will get on the subject, does quote from Senator George Norris who was the founder of unicameralism and the quote he makes about checks and balances, I believe, is a very good one. He says, "It has been the stock argument that in a two House legislature, one branch serves the check upon the other in the ultimate molding of good and wholesome legislation. As a matter of practice, it is developed frequently that the politicians have the checks and the special interests, the balances." I would submit to you that that is the case under the bicameral system as practiced today.

I would also add into the Record that the Humphrey Institute on Government in 1987 after looking, not only at unicameralism in the State of Nebraska, but comparing it to the practice of bicameralism in neighboring states came to the conclusion that there were internal checks and balances that work under unicameralism but it also took less time, wasted less money, got less bills passed and did overall a better job than neighboring states.

There is an historical background to checks and balance arguments and why it is no longer valid, which I had intended to spare you in the last go-round we had but in deference to the good Representative, I will make it for you.

When this country was founded, in all of the states there was no such thing as checks and balances. It was a nice theory. I like theory, I teach theory, but there is a difference between theory and reality. The reality in 1789 in every state was that the legislative bodies were far more power than the executive or the judiciary. The

reason for that was the experience of the Revolution that everybody had gone through against what was considered executive power, unfair tyrannical executive power practiced by the King and Royal Governors. For that reason, the Governors in all of the states were very weak and the legislatures were very strong. A primary reason why a bicameral system on the state level was adopted was to put in an internal check within the overpowerful legislature. That was the fundamental historical reason.

Well, 200 years later, nobody in any state can argue that the legislature is much more powerful than the executive or the judicial branches. In fact, the pattern of development historically has been diametrically against that. So, the argument in 1789 may have been a good argument on the state level, it no longer is applicable.

Secondly, in most of the states, upper bodies were in fact viewed as checks upon the lower bodies as the good Representative from Westbrook pointed out. Often they were based upon all kinds of property and religious qualifications. In some cases, you didn't even have to be elected, you were appointed to be in the upper Houses. In fact, until 1913 on the national level, our U.S. Senators were not directly elected, they were appointed. That was based upon an argument that geography and special interests should serve as a check upon the more popular and democratic lower Houses. If that elitist approach ever had validity, if it ever had validity it went straight out the window in 1964 when the Supreme Court ruled in Reynolds versus Simms, one person/one vote and that had to be the basis for Houses of Representatives and the Senate. So, the Constitutional argument — the Constitutional argument, which may or may not have been valid until 1964, was rendered moot by the Reynolds v. Simms decision. We have the same basis of voting for both Houses. We have to come back to the question, are two Houses necessary?

There are a number of founding fathers that were quoted by the good Representative from Westbrook earlier. I am going to spare you that at this point except to point out that unicameral legislatures did exist on the colonial and state level in states like Vermont and Georgia and they worked, that Benjamin Franklin, if we want to throw out a name, came from a unicameral system and could deal with that. What Representative O'Gara was talking about was the compromise which was made on the national level to have a balance between small and large states. That is an argument for the national level. As I have tried to indicate, it is not an argument on the state level anymore, but I said I wouldn't go into that and I will try to hold myself to that.

If we can move on, and I am sure we all want to, I want to stress the good points, strong points, positive points, what I view as common sense arguments of why we should reaffirm our vote of last week.

First of all, if you really want to save money, you should vote for the unicameral system. It will save at least \$4.5 million per biennium and that is not adding in all kinds of extraneous and additional costs of the paper chase and what have you. The reason why Nebraska is having a more expensive legislature is because it is so small and it requires staff and what have you. As far as anything else, that has no application. This will save money, not only one shot, but cumulatively every biennium it

will save money and that cannot seriously be contested.

Secondly, if you want to make state government more efficient, I would encourage you also to vote for unicameralism. It would end much of the wasted time and money and duplication of effort we have under the present system. I am not going to quote a single study or famous dead American because everybody in here knows the waste that takes place under this system.

Thirdly, if you want to make the legislature more representative, and this is something that is not always argued but to me is a major point, you should also consider voting for a unicameral legislature. Why? Number one, it preserves the voice of all of the State of Maine, rural as well as suburban and urban constituencies.

Secondly, it would create a legislature which is more accessible to the public and, hopefully, more understandable to the public and press that covers us. In turn, that would increase accountability. We wouldn't be able to play the games that we presently play.

Also, it would decrease the power of special interest lobbyists. I would note to you that the individuals I have talked to in the hall after this came up, the strongest opposition to this invariably came from lobbyists — I wonder why?

Another major argument for unicameralism is that if we want to start to move beyond gridlock, if we want to alleviate the built-in structural problems that leads to gridlock, this would be a significant move in that direction. Anyone who remembers the 1991 session knows what I am talking about.

Fifthly and most importantly, if you are ready to vote for substantive reform, substantive reform that on the one hand reduces the size of the legislature and at the same time reforms the way we do the people's business, this is your opportunity to do that. This is the only size reduction substantive reform bill still alive. If you want to give the people of the State of Maine a chance to vote as we do, I encourage you to vote for this. State government in Maine faces a crisis, it isn't transitory, it isn't going to go away, we are moving into a new period with new challenges that require new solutions.

I would close with Abraham Lincoln, a good Republican, a good American who said to Congress in 1862, "If ever there could be a proper time for mere catch arguments, that time surely is not now. The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty and we must rise with the occasion. As our case is new, so must we think anew and act anew."

Men and women of the House, I urge you to think and act anew. I urge you to vote for this piece of legislation. I apologize for going on at my usual length, I thought it was necessary. I don't know if the good Representative from Westbrook is going to encourage me to kill again but I will try to be as limited in the damage as possible.

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

Representative YOUNG: Mr. Speaker, Ladies and Gentlemen of the House: I don't know if many people here know it but one of the reasons I sought to leave academics and become involved with politics was that I was hoping to get away from long lectures from well educated people.

I do rise this morning however to encourage you to pass this bill. I think there are two good reasons for a unicameral legislature. One of them is argued for in the little editorial that you have from the good Assistant Majority Leader and he basically says that from the standpoint of checks and balances a second body, another House, makes sense when the two bodies represent different interest. For example, originally at the federal level, the upper body, as we all know were appointed and still to this day they have a kind of regional flavor from each state.

I would be all for an upper body in the Maine Legislature where we had two Senators from each county, then I could see a real check and balance. But, when you have two bodies, both based on population, the only check and balance is purely from the standpoint of inefficiency.

That brings me to my second reason for endorsing unicameralism for the Maine Legislature. We are the people's branch of government. We simply cannot afford to have our hands tied in the manner in which they are. We are currently, in the State and Local Government Committee, looking at legislation to control bureaucratic rulemaking. The rulemakers can do things which have the force of law much more easily than we can here, passing back and forth, amendments being made, and so on and so forth.

We are at a disadvantage to the executive and the judiciary because of our holding onto this antiquated pattern of doing business. I think it is something whose time has passed.

So, I would ask you to vote with the good Representative from Westbrook, Representative Lemke, and support unicameralism for our legislature.

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

Representative O'GARA: Mr. Speaker, Men and Women of the House: In spite of the admonishment, subtle or not from the two previous speakers about long lectures, it seems to me there are things that people have a right to say and want to say and I do beg your indulgence for just a few more minutes.

One of the comments that the Representative, my colleague from Westbrook who read down a list of seven points, also mentioned that reading and quoting George Norris, and George Norris said that the two House legislature is a relic of the past, now when you think of how long ago it was that he made that statement, obviously not many legislators, literally thousands and thousands and thousands from that period of time until now across this country, have agreed.

I can't resist the temptation to point out also that he is referred to constantly as the "Father of Unicameralism" but I would suggest to you that he had a very, very small family.

In his seven points, the Representative from Westbrook also mentioned, perhaps not intending to, that it is easier to control (or in so many words) one House — lobbyists found that to be true. That is what I have been saying and he mentioned that as one of the points.

Each of us, especially if we have been here for any length of time, can certainly recall one or more occasions when we were very grateful that there was another House, either because that House sustained and kept alive legislation that we believe very strongly in or because that House, that other body, killed a piece of legislation that we felt was not

good legislation.

I would submit to you that still in the remarks of the Representative from Westbrook, no flesh on the skeleton, just a constant reference to the 151 member, but no flesh on the skeleton, no idea of giving to you what this is going to be like, how it is going to be run.

The Representative from Westbrook also mentioned that when he was talking about the \$4.5 million, at least he mentioned, emphasized, \$4.5 million and he said, that is without and including the paper chase. In fact, just this very day and on the other occasion, the Representative from Old Orchard pointed out to me that the paper chase, so-called, is included in the \$4.5 million. That can be challenged right here, I stand to be corrected, but that is exactly what I was told that in fact the paper chase was included.

My point is, again, if they are not sure what is in that amount of money, then how can you and I be sure? I maintain again that there are a lot of unanswered questions and that is what it really boils down to.

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

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: I believe that this piece of unicameral legislation was brought up last year and only last year and this year has it been extensively debated.

This piece of unicameralism legislation is a product of government gone already 12 years ago.

As the good Representative from Westbrook, Representative O'Gara stated quite clearly, it is seriously a financial and economic reason that this piece of legislation is before us today.

I have just a few questions to ask all of us here on the floor of the House today.

If this is such a good way of government to go, then why are not all states unicameral?

If this is such a great piece of legislation, why has a bicameral legislature served us so well for 200 years?

If this is such a great piece of legislation, I ask you this, with our constituencies asking us to reduce the size of the legislature, what happens if we vote for unicameralism and somewhere down the road our legislature is the same size as that of Nebraska?

Ladies and gentlemen, it has served us well for over 200 years, it is an absolute check and balance system.

My final question is simply this, is \$4.5 million worth 200 years of a responsible good check and balance system? I think not. I ask you to support the good Representative from Westbrook, Representative O'Gara.

Representative Joseph of Waterville requested a roll call vote.

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

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

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: I have to rise when the good Representative from Westbrook says there is no flesh on my skeleton, nobody has really accused me of that recently. I hope that you understand that there is flesh on this proposal.

I am going to be extremely brief. I want it made clear that lobbyists are powerful in Nebraska because Nebraska has 49 members. The bill before you is 151 members. The Representative from Westbrook constantly makes the case against Nebraska and I concede the case against Nebraska, this is not the Nebraska bill.

Secondly, the question was raised by the good Representative from South Portland, if this is so good, why hasn't it been copied? One of the reasons why Nebraska hasn't been copied is because Nebraska is 49 members and is non-partisan and that has been a major roadblock in getting it passed.

I would also add that in California at this moment, in Iowa at this moment, in Michigan at this moment, there are movements towards unicameralism. It is hardly as small as the good Representative from Westbrook thinks. I think it will have a much larger family in the near future.

Probably there are still unanswered questions but I am going to save you all and not attempt to answer them now except to say, give the people of the State of Maine a chance to fully debate this and vote upon this, that is part of the process. I urge you to vote green on the pending motion.

Representative O'Gara of Westbrook was granted permission to address the House a third time.

Representative O'GARA: Mr. Speaker, Men and Women of the House: He continues to emphasize 151 and yet the very Senator, the longest standing member of the Legislature in the State Senate of Nebraska says, "if you go over 50, it doesn't work." How many times do I have to emphasize that? He can talk about keeping it at 151 to make it this magic number but in the very state where it is successful he says in the article for Nebraska, "If you go over 50 and you don't make it non-partisan, it does not work."

The SPEAKER: A roll call has been ordered. The pending question before the House is passage to be engrossed.

The Chair recognizes the Representative from Buxton, Representative Libby.

Representative LIBBY: Mr. Speaker, pursuant to House Rule 7, I wish to pair my vote with Representative Constantine of Bar Harbor. 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 passage to be engrossed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 121

YEA - Adams, Ahearne, Anderson, Barth, Beam, Bowers, Cameron, Carleton, Cashman, Chase, Chonko, Clark, Clement, Coffman, Cote, Cross, Dexter, DiPietro, Faircloth, Farnsworth, Fitzpatrick, Gean, Gould, R. A.; Gray, Hale, Hatch, Hichborn, Hoglund, Hussey, Jacques, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Kutasi, Lemke, Lemont, Lord, Michael, Michaud, Mitchell, J.; Nash, Oliver, Paradis, P.; Pendleton, Pfeiffer, Pineau, Pinette, Plourde, Poulin, Pouliot, Rand, Richardson, Rowe, Rydell, Saint Onge, Saxl, Simonds, Simoneau, Stevens, A.;



Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, L.; Tracy, Treat, Vigue, Walker, Wentworth, Winn, Young, The Speaker.

NAY - Aikman, Aliberti, Bennett, Birney, Brennan, Bruno, Campbell, Caron, Carroll, Cloutier, Clukey, Daggett, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Farnum, Farren, Foss, Gamache, Greenlaw, Gwadosky, Heeschen, Hillock, Johnson, Joy, Kneeland, Libby Jack, Lindahl, Lipman, Look, MacBride, Marsh, Marshall, Melendy, Mitchell, E.; Murphy, Nickerson, Norton, O'Gara, Pendexter, Plowman, Reed, G.; Reed, W.; Ricker, Robichaud, Rotondi, Skoglund, Small, Spear, Strout, Taylor, Thompson, True, Tufts, Whitcomb, Zirkilton.

ABSENT - Ault, Bailey, H.; Bailey, R.; Carr, Cathcart, Coles, Heino, Holt, Jalbert, Larrivee, Martin, H.; Morrison, Nadeau, Ott, Ruhlin, Tardy, Townsend, G..

PAIRED - Libby (Nay)/Constantine (Yea)

Yes, 74; No, 58; Absent, 17; Paired, 2; Excused, 0.

74 having voted in the affirmative and 58 in the negative with 17 being absent and 2 having paired, L.D. 1035 was passed to be engrossed as amended by Committee Amendment "A" (H-277) and sent up for concurrence.

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

SENATE DIVIDED REPORT - Majority (11) "Ought to Pass" as amended by Committee Amendment "A" (S-141) - Minority (2) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act to Impose Term Limits on Presiding Officers of the Legislature" (S.P. 167) (L.D. 559)

- In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-141)

TABLED - May 20, 1993 by Representative GWADOSKY OF Fairfield.

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

Representative Rowe of Portland requested a Division.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I believe it is quite plain what we are voting on. This piece of legislation would impose three consecutive term limits on presiding officers of this body and the President of the Senate and the Speaker of the House. This is not a complex issue, it is very self-explanatory.

I am asking you today, is this legislation necessary? We all understand what term limits mean, but there are two things happening here. First of all, there is a form of hypocrisy going on when in fact term limits are okay for some but they are not okay for others.

The second point that I would like to make this morning is that L.D. 751 was referred to the justices. The justices said that this piece of legislation is perfectly legal and the voters of this state may vote on it.

I will remind you that this piece of legislation was transmitted to the Clerk of the House by the Secretary of State upon the request of more than 90,000 persons in this state. The people in the districts throughout the State of Maine will be voting on the question that a person may not serve in the Senate more than four consecutive terms. A person may not serve more than four consecutive terms as a member of the House of Representatives. A person may not serve more than four consecutive terms as Secretary of State and a person may not serve more than four consecutive terms as Treasurer of the State. A person may not serve more than four consecutive terms as Attorney General. A person may not serve more than two consecutive terms as State Auditor and it says, "This section applies to terms of offices that begin on or after December 3, 1996."

The reason that I am on the Minority "Ought Not to Pass" Report is that I believe that this question is moot as to whether presiding officers, floor leaders, committee chairs (and you will be seeing those bills soon) will be restricted to serving only three consecutive terms when I am 99 percent sure that the people of this state will be endorsing the contents of the piece of legislation that I just read to you.

I would urge you to accept the Minority "Ought Not to Pass" Report.

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

Representative DONNELLY: Mr. Speaker, Ladies and Gentlemen of the House: I tend to disagree with the good chair of the State and Local Government Committee in that I don't think this is moot at all. It is hardly moot for the legislature to set guidelines for itself and its leadership. I don't think it is a foregone conclusion by any means that the people will pass the bill that is being sent out to them. If it were a foregone conclusion, then it certainly would have passed in this body which is representative of the people.

I just want to repeat a few of my comments from the committee hearing. We have seen in our state and nation a movement towards term limits. I submit to you that unless this legislature takes steps to remedy that problem, the people will focus in on the very basis of, what would constitute a democracy today, will be different tomorrow. Each of us must return to the people and be judged by our own performance every two years. These positions which we are talking about limiting today concentrate power and are representative of the Representatives and Senators and elected by fewer than 151 people and 35 persons. This is what is referred to as an oligarchy in political science terms, described in Webster's Dictionary as a government in which power is in the hands of a few. In such a case, I believe we have only two choices in helping reassure folks at home that their government is just that, fair government. Either we limit the terms of those in such positions to help guarantee that there is not too much power accumulated in that position or properly elect these positions as we all are.

I would ask that the people here today, State Representatives, vote against the pending motion and go on to accept the Majority "Ought to Pass" Report.

I ask the Clerk to read the Committee Report.

Subsequently, the Committee Report was read by the Clerk in its entirety.

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

Representative AHEARNE: Mr. Speaker, Men and Women of the House: The question of whether to enact legislation limiting the number of terms individuals can serve in the legislative leadership positions must be answered by the people of Maine, not by the legislature. The proposition to be put to the voters to limit to four terms all members of the legislature would in fact decide the question of leadership term limits by eliminating the number of terms a legislator could serve. Simply stated, if the voters of this state want to limit the number of terms for legislative leaders, it will prove the term limit proposal; thus, automatically limiting leadership terms. If the people of this state decide that they want their legislators to serve an indefinite number of terms unless ousted by the electoral process, then they have the right to allow these same legislators to serve in a similar fashion in the leadership positions until either defeated in an election or defeated in an election for these leadership positions.

To otherwise say to the voters that this is okay for you to decide how many terms legislators will serve but we are going to enact legislation limiting the number of terms our leaders may serve in leadership positions because we don't believe that we as legislators are capable of exercising good judgment in the selecting process for leadership.

I say, let the people of Maine decide whether to limit terms for us all and in so doing, they will decide whether leadership positions will be limited to four terms automatically. Let the voters decide.

I ask you to accept the Minority Report.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: I was one of the eleven members on the State and Local Government Committee, as you heard, that voted "Ought to Pass" as amended.

I would ask that you vote to defeat the pending motion so that we can go on to vote and pass the "Ought to Pass" as amended Report.

I just want to take a minute and tell you about the bill. You have heard that if there is a Constitutional Amendment question in November that passes, this bill will be made moot. I agree with Representative Donnelly, that is not in fact the case.

The original L.D. 559, limited — it said a person may not serve as President of the Senate or Speaker of the House for more than two consecutive legislative bienniums. So, there was a two term limit on the original L.D. 559. The amendment which the committee sent out would increase that to three consecutive legislative bienniums. So, it would restrict service in the positions of President of the Senate and Speaker of the House to three consecutive legislative bienniums. Service in that capacity before December 2, 1992 would not be included in the calculation of years served.

The proposed Constitutional Amendment, as you know, would limit the terms of legislators to four consecutive terms so there is a difference in the terms. More importantly than that, I think it is important that we, the legislature, do what we think is appropriate at this time and not look to the voters to do it for us. I think limiting the terms of Speaker and President of the Senate would be healthy for the legislature and healthy for the

legislative process. It would give more individuals an opportunity to serve in these very important leadership positions.

If you remember, a couple of months back, the Representative from Vassalboro had a rule change that she had proposed. Several people at that time were opposed to the rule. That rule would have limited the terms for Speaker and President of the Senate. They were opposed because they said we have some L.D.'s that will take care of that, let's wait for the L.D.'s. Well, you have the L.D. in front of you today.

Again, I think it is important to send a message to the voters that we understand the importance of this issue and that this will send a positive message to the voters. More importantly, as I said, I think it will be healthy for the process.

I ask that you vote to defeat the pending motion so that we can go on and vote and pass L.D. 559 as amended.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: One of the things that we have heard this morning is that the voters will have an opportunity to discuss term limits, that is true, but I think it is very important that each and every piece of legislation before this body be looked at on its own merit and not in relation to something else that has not even happened yet, particularly in this case.

I think there are some real significant differences in term limits for rank-and-file members and term limits for leadership. Part of that has to do with the voting process. When one of the many thousands of people in your district goes into a voting booth to vote, that ballot is absolutely secret. It is an absolutely private matter and when that person comes out, they can tell you they voted for you and they did not or vice versa. It just doesn't matter. When that vote has been totaled and someone is elected as a Representative for that district, at that point it shouldn't matter anyway because you are elected to represent all the people in your district, regardless of how they voted or if they voted. What happens in the smaller closed system in which we exist is very different. It is very obvious who votes for whom, whether it is a secret ballot or not. The ability under our current rules for leadership positions to control your ability to get your work done, to control how you are able to represent your constituents is very great. I do think there are significant differences in the process between electing leadership within this House or electing a Representative from within a very large district.

The three terms of two years each seems a reasonable amount of time for a person to come in, have some understanding of the job, work through that, and then allow other people to bubble up through that process as well. I think part of what would be created in that is a very active pool of people that are going to be climbing on that career ladder and also be developing their own policies, their own ideas and have their agenda. I think those discussions about policies and agenda would be very helpful and are something that we have not had enough of since I have been here for seven years.

I would urge you please to defeat this motion so

we can go on to pass this bill.

Representative Whitcomb of Waldo requested a roll call vote.

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

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

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I don't want to prolong this discussion but I want to make it clear to you that it is not a Constitutional Amendment that the voters will be voting on, it is an Initiated Act in the Fall.

If you are looking for government reform, we do not believe that this is government reform. I need to reemphasize logic. Logic is, that yes, I believe and that is why I signed on to the Minority Report, that the voters of this state under the present circumstances will be voting to limit legislators terms to four terms. Logic is, if you enter this body as a first term legislator, then you will probably not be holding a position of leadership either as a presiding officer or floor leader. Then, there would only be three terms left for you. I only base this argument on the decision of the justices that came to us long after the committee received this bill. The times have changed since the introduction of this piece of legislation in February. The times have changed since March 1 when the committee heard this piece of legislation and because of this new information, it was the feeling of those of us that presiding officers as well as others, terms should not be limited because I believe that the people of this state, the voters of the state, will in fact vote for the Initiated Act, the act that was initiated with more than 90,000 signatures.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I would again like to emphasize that each and every piece of legislation that comes into this body should be judged in its own merit. It should not be linked to something that has not happened yet. I cannot and will not assume how the people of this state are going to vote on the Initiated Petition that has been put before us. I think that it is a cop-out to say we don't have to do this because people are going to do it. We don't know what they are going to do. We have a job to do here, now, today. Our job is to make a decision on this piece of legislation and I do believe that we should take everything else out of it and just look at this bill and decide within your heart if that is what you want to support or not.

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

ROLL CALL NO. 122

YEA - Ahearne, Aliberti, Chonko, Daggett, Driscoll, Erwin, Faircloth, Gean, Hatch, Holt, Jacques, Jalbert, Johnson, Joseph, Marsh, Melendy, Michaud, Mitchell, J.; O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pouliot, Rand, Rotondi, Rydell, Saxl, Skoglund, Stevens, K.; Strout, Sullivan, Swazey, Townsend, G.; Townsend, L.; Wentworth.

NAY - Adams, Aikman, Anderson, Barth, Beam, Bennett, Birney, Bowers, Brennan, Bruno, Cameron, Campbell, Carleton, Caron, Carroll, Cashman, Chase, Clark, Clement, Cloutier, Clukey, Coffman, Cote, Cross, Dexter, DiPietro, Donnelly, Dore, Dutremble, L.; Farnsworth, Farnum, Farren, Fitzpatrick, Foss, Gamache, Gould, R. A.; Gray, Greenlaw, Gwadosky, Hale, Hillock, Hogle, Hussey, Joy, Kerr, Ketterer, Kilkelly, Kneeland, Kontos, Kutasi, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Michael, Mitchell, E.; Murphy, Nadeau, Nash, Nickerson, Norton, Pendexter, Pendleton, Pinette, Plourde, Plowman, Poulin, Reed, G.; Reed, W.; Richardson, Ricker, Robichaud, Rowe, Saint Onge, Simonds, Simoneau, Small, Spear, Stevens, A.; Taylor, Thompson, Townsend, E.; Tracy, Treat, True, Tufts, Vigue, Walker, Whitcomb, Winn, Young, Zirnkilton.

ABSENT - Ault, Bailey, H.; Bailey, R.; Carr, Cathcart, Coles, Constantine, Heeschen, Heino, Hichborn, Larrivee, Martin, H.; Morrison, Ott, Ruhlin, Tardy, The Speaker.

Yes, 36; No, 98; Absent, 17; Paired, 0; Excused, 0.

36 having voted in the affirmative and 98 in the negative with 17 being absent, the Minority "Ought Not to Pass" Report was not accepted.

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

Committee Amendment "A" (S-141) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (S-141) in concurrence.

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

HOUSE DIVIDED REPORT - Majority (10) "Ought to Pass" as amended by Committee Amendment "A" (H-364) - Minority (3) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act Imposing Term Limits on Legislative Leadership Positions" (H.P. 546) (L.D. 742)

TABLED - May 20, 1993 by Representative JOSEPH of Waterville.

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

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

Representative ROWE: Mr. Speaker, Men and Women of the House: I would simply want to point out what it is we are voting on and what is in the Committee Amendment to L.D. 742.

The Committee Amendment to L.D. 742 would essentially do the same to the Majority Leader, Minority Leader and the assistant Majority and Minority leaders as the last bill did to the Senate President and the Speaker. It would limit

individuals serving in those positions to three consecutive legislative bienniums and it would exclude service prior to December 2, 1992.

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

A vote of the House was taken.

32 having voted in the affirmative and 85 in the negative, the Minority "Ought Not to Pass" Report was not accepted.

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

Committee Amendment "A" (H-364) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-364) and sent up for concurrence.

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

HOUSE DIVIDED REPORT - Majority (11) "Ought to Pass" as amended by Committee Amendment "A" (H-367) - Minority (1) "Ought Not to Pass" - Committee on Business Legislation on Bill "An Act to Centralize Licensing for Retail Businesses" (H.P. 399) (L.D. 512) TABLED - May 20, 1993 by Representative WHITCOMB of Waldo.

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

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Hوجلund of Portland that the House accept the Majority "Ought to Pass" as amended Report and later today assigned.

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

HOUSE DIVIDED REPORT - Majority (10) "Ought Not to Pass" - Minority (3) "Ought to Pass" as amended by Committee Amendment "A" (H-375) - Committee on Legal Affairs on Bill "An Act to Protect Children from Illegal Tobacco Sales" (H.P. 554) (L.D. 750) TABLED - May 20, 1993 by Representative DAGGETT of Augusta.

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

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: I think this major piece of legislation is going to raise in the House today a critical issue, not dealing as the Joe Campbell pamphlet says in a Surgeon General's warning about quitting smoking, reducing serious risk to health, but instead dealing with the issue of how do we help and encourage in the real world and slow down smoking

getting started.

I will cut right to the heart of the matter. This bill provides for a \$5 and five minute license for purveyors for sellers of cigarettes. For those sellers who have \$100,000 gross profit, the license fee is \$50 — \$100,000 in gross profit from cigarettes, that is 20,000 cartons. The retail seller of cigarettes makes about \$5 per carton but \$100,000 worth of gross profits is needed. In fact, I talked to a seller of cigarettes who thought he was eligible for the \$50 fee, he sold 5,000 cartons in a good year. He had to increase his sales four times to be eligible for the \$50 fee. It protects the legal and supported vendors who do not wish to disobey or break the law that is now in place. It enables them to deal with vendors who do break the laws.

The facts are that 95 percent of all smokers in Maine begin smoking before they are 18, begin smoking when it is technically illegal to obtain cigarettes, 95 percent. Five thousand young people will learn to smoke in Maine this year and every year unless we develop effective enforcement on this issue. Of those 5,000 young people who begin smoking, 1,700 will die premature deaths before they ought to have died because of their smoking, 1,700 young people in Maine. We can cut that in half. We cannot cut it entirely. We all know that many young people will obtain cigarettes that really want to obtain them, but we can cut it in half and that is the reason this bill is before you.

Young people obtain cigarettes by buying them, not by stealing them, but by buying them. Over half the retailers in Maine sell cigarettes to people under 18. That is true across the country. The Signor Amendment will start to deny to states ten percent of their substance abuse block grant money beginning next year for those who do not have enforcement mechanisms in place. This is the kind of enforcement mechanism that will work and will certainly qualify for the Signor Amendment. We lose a half a million next year and the same amount for the next four years if there is no enforcement in place. I tend not to like that way of doing public policy because it is a club approach but you need to know that fact.

Sales to minors of Camel cigarettes rose from \$6 million to \$476 million in three years from 1987 to 1990. Camel cigarettes went from being the so-called World War II veteran cigarette, smoked by less than one percent of the market of young people, to something over a third of the market of young people because of the effectiveness of the Joe Camel campaign. Kids know Joe Camel better than they know Mickey Mouse. The identity is higher and of course particularly high in the 11, 12, 13, 14 year old period, not up in the 17 and 18 years of age period.

The tobacco institute said no linkage has been proven between advertising and the consumption of cigarettes, a most amazing statement that I have seen in recent times.

The market went from \$6 million to \$476 million, from 1 percent to in excess of 30 percent.

The usual solutions, clearly not working — education, some would say. The instructor in the Gardiner High School for the cessation of smoking seminar said the kids absolutely turn off from those classes when they are sent to them because they have been caught smoking on campus. There is no impact from education. Kids learn from what their peers and

the people around them do, not by what teachers tell them to do in a classroom setting on an issue like that. Some states have taken the "punish the kid" approach, Iowa and New Hampshire, it doesn't work, it creates a counter-culture. It becomes more attractive to smoke, not less attractive. The bottom line in "punish the kid" approaches is raising the ante for police so the police can enforce it more. Somehow we can criminalize it more and the police will do it. When I asked police officers in the department of my hometown, their answer was simply, "Give me a break, I can't begin to enforce it."

In fact, I find it particularly ironic that the fiscal note of another bill on this matter describes the additional workload in administrative costs are costs associated with enforcement of anti-smoking laws filed in the court system can be absorbed. It is nominal because even our fiscal office knows that there is no real chance, no real likelihood of significant criminal enforcement. It doesn't work, it won't happen.

Eight hundred kids can be saved from premature death if we do what the coalition for smoking on health nationally has suggested as a basic mechanism to deal with enforcement of prohibition against selling cigarettes to kids.

There are two ways to really deal with this issue, one is to raise the cost of cigarettes. Now, this bill does not address that, that's in the purview of the Taxation Committee and perhaps they will bring something forward on that issue but what has happened in recent days is that the cost of cigarettes have declined dramatically because of the decision to lower Marlboro, which has half of the teens' market to lower their costs directly. That was a decision by the tobacco industry, that they want to not focus on immediate profits but focus on their future markets on smokers in order to get the kids more involved.

If there is ever an environment in which the decline of smoking is affected by the increase of costs, it is young people in this area. The Canadian throb in the beginning of teen smoking has been dramatic with the dramatic increase of the cost of cigarettes in Canada. It is almost immediate when the kids realize how many CD's it has cost them by virtue of the cost of cigarettes, they slow up. It doesn't address the hard-core, addicted kid but it does address the casual experimenter and potential future hard-core addicted kid.

We have to enforce the present law more realistically. We have to have administrative officers with the Bureau of Alcohol and Tobacco, Department of Public Safety who are professionals at development a mechanism, first with a warning system, then with a short-termed pulling of a license so that the vendor knows that the fellow down the street who is selling cigarettes illegally because of the young people rolling in, that he or she will not be at a competitive disadvantage if they obey the law. There is an easy mechanism for enforcing it and also one that is far less criminalizing than the real criminal justice system. You simply pull the license for a day or two or three and the young people who came in to get their cigarettes and also got their milk and their family's newspaper or whatever will not be able to do that there. The honest purveyor of tobacco cigarettes will have an easy and effective way to deal with the purveyor who does not obey the law because they will all will be obeying it because

there will be effective enforcement there and they will not want to pay the economic cost of disobeying the law.

I have been able to turn around local variety storeowners who sometimes — one of them in particular tore out an article of me associated with this bill, circled my name and was prepared to give me heck the next time I came in and when I went in, in five minutes, this fellow realized the protection that this license gave him. He conceded he was in favor of it, for him, \$5.00, five minutes, that was all, and his protection was there next to him.

I don't know what else to say and I will sit down. This is the easiest enforcement mechanism in front of us. I urge you to support this legislation and to cut the young people beginning smoking dramatically in the State of Maine.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I think that the title of this bill, "An Act to Protect Children from Illegal Tobacco Sales" is somewhat enticing but I want to speak to you a little about the substance of this bill.

My concern about the approach that this bill takes is that it does not recognize the cause and effect of children and smoking. This bill would establish a large enforcement structure to enforce the sale of tobacco. It would pay for that enforcement structure through a license fee. I think it is time that we stop trying to reduce or eliminate a behavior through penalties, enforcement and punishment. This is an example of outmoded thinking and it simply does not address the cause and effect.

I think if you take a look at the current enforcement structure that we have in regard to alcohol, you can see that this has not kept alcohol out of the hands of youth. We have a real problem with underaged drinking. It may prevent them from buying it over the counter in a store but it does not prevent them from drinking.

I would submit to you that this legislation, if passed, would largely prevent children from buying at a store but it would not prevent them from smoking.

There is a very high correlation of smoking among people who do not have a lot of education. I think we know some other correlations but we simply don't want to address it.

If a bill raises \$500,000, I would prefer to see that spent in a positive manner, in a way that is known to reduce whatever that behavior is. I would encourage you to accept the "Ought Not to Pass" Report, hoping that at some point we could have a positive, affirmative program that will really address the problem, not create a larger bureaucracy in an area that has been proven to be ineffective.

I hope you will join me in supporting the "Ought Not to Pass" Report.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: "An Act to Protect Children from Illegal Tobacco Sales" — those words are a sham. That should read "An Act to Establish and Create a New Bureaucracy called the Bureau of Liquor and Tobacco Enforcement." There are 18 pages in this bill and 10 of them speak about the enforcement and creation of this bureau. We are trying to downsize the government but we are doing just the opposite.

This is about the third time I have seen this bill come up. We are trying to cut down the cost of government but what we are doing now is "An Act to Establish the Bureau of Liquor and Tobacco Tax Enforcement." I would urge you to vote for the pending motion.

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

Representative PENDEXTER: Mr. Speaker, Ladies and Gentlemen of the House: I would encourage you to vote against the pending motion "Ought Not to Pass."

I feel that this is an important piece of legislation. The fact that this legislature felt that it was important to enact legislation that prohibits the sale of tobacco, as well as liquor, to minors and we felt that it was important enough to do that and yet we are left with a system whereby we can't enforce the laws. So, I say to you, if you felt or the people who have come here before us have felt that it was important to limit the sale of tobacco as well as alcohol to youths, then I say this is the piece of legislation that you need to support.

I am not going to stand here and say to you that we should be expanding bureaucracy but sometimes we need to look at what bureaucracy can do. It is very obvious that there is no way that we can enforce these laws without more people to enforce them. If this bill can, in any way, help the alcohol enforcement, the I say, why would we be against it? Who in this room will support the fact that it is okay for kids to drink and to smoke? We all know, my kids are in high school, and my high school is not any different than yours, that it is a piece of cake to get alcohol and tobacco. There is no problem and the kids totally ignore the law and we are left helpless with laws that we can't enforce so I really ask you to think about what is going on.

I just want to mention to you a sting operation that was done in the Kennebec County just this winter and it was a group of five teenagers who sort of participated in the sting operation in which they were able to purchase cigarettes in 38 of the 56 gas stations, grocery stores, pharmacies and other retail outlets that they visited. This was done under the supervision of the American Lung Association and I think it demonstrates very well how easy it is for kids to buy tobacco.

I am not going to reiterate all the statistics and everything that you have just heard but I really want you to think about the fact that education is fine and that is the way we should proceed but education all by itself isn't always effective. I think if you have some very powerful enforcement laws and a mechanism in place to enforce those laws, along with education, then you really get results. I think that has been proven over and over again in other issues.

This bill has a fiscal note of some sort but I ask you to think about, do you want the fiscal note now or do you want it later? Because, as the Representative from Portland said, we will be in violation of federal laws very quickly and our substance abuse block grant money is about \$4 million and the figures I have, we could stand to lose as much as 40 percent of that over the course of years. So, I really ask you to think seriously before you vote to kill this piece of legislation.

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

DiPietro.

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I stand on this day because I feel that some of the things you heard from some of the people that have spoken before me are really not completely a hundred percent the truth. One, in this bill it says \$5, five minutes for a storekeeper that does x-dollars, which is fine. I have a supplier who has been in this tobacco business for 50 years, two generations, that gentleman's license is presently between \$10 and \$25. With this bill, this gentleman is going to have to pay \$5,000 a year. I ask you, from \$10 to \$25 a year this man is going to have to pay \$5,000?

We talk here about trying to build jobs and give tax credits for people so they can keep working — do you realize what this will do to the small guy? They are not all big businessmen, they are little people, this is a family that has owned this business for 25 or 30 years that I buy from and now they've got to pay \$5,000 for a license.

I agree with the gentleman from Portland, what we need is more education, we have got to take these kids and we've got to teach them how much harm tobacco will do. I will give you just a quick example of what happened last night, a very pretty young lady came into my store, probably 16 or 17 and said, "I would like a package of Marlboro's." I said to her, "Do you have some identification?" She said, "I have it at home." I said, "Well then, you go home and get it." Two minutes later, in comes a young man 22 years old that said he wanted a pack of Marlboro lights. I said to him, "Who are they for?" He said, "That young lady out there." So, they are going to buy cigarettes, they are going to find a way to get the cigarettes, there are people who buy them beer the same way. I have people come into my place and when they buy three different kinds of six-packs of beer, I know they are buying for three different people — but he is of age. I am not concerned what they do with it after they walk out of my store, I am only concerned what happens in my store.

This is a bad bill because there is no way if a young man or a young lady wants to smoke, they are going to have that right and they are going to do so but, please, please think of the people that we are going to put out of business by passing a bill like this.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: You have heard several times mentioned to you the concern about losing some federal funds if we don't pass this bill and I would just like to address that.

The federal government, in an attempt to encourage states to do what the federal government does not have the political will to do, has passed a bill, which has a piece called the Signor Amendment, which threatens to remove part of state substance abuse block grant funds if they do not conform to several regulations. One of those, and the piece that requires legislation, is that states have a law in place which prohibits the sale to minors. Now, Maine has that law in place and it is my opinion, as well as several others, that there is no other legislation needed. There are other things that are needed and one of those would be strategies for enforcement. We have a law on the books and, hopefully, this summer some of the people who are

concerned about this will get together and address the issue of developing strategies for enforcement.

One of those strategies would likely be a sting operation which was mentioned earlier by Representative Pendexter. There was a sting that was held in Kennebec County solely for the purpose of determining that there are illegal tobacco sales. To my knowledge, there is no one that disagreed with that but a considerable amount of time was spent proving that there are illegal sales going on today but a sting can take place, there could be a handful of stings and I think this is supported by a number of interests. This does not require legislation. We can develop strategies for enforcing our laws on the books without legislation.

Again, we have no reason to believe at this time we are going to lose our federal funds and I hope that you will join me in supporting the "Ought Not to Pass" Report.

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

Representative RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House: I have to clarify, which was on the fact sheet, the exact situation with the fee, the exact situation because this is the only point at which the so-called bureaucracy enters into the picture and that is the moment of getting the license for those who are obeying the law. For thousands of sellers of tobacco products who have a gross profit from the selling of those tobacco products of less than \$100,000 a year, that is the overwhelming majority of purveyors of tobacco or the Mom or Pop's. Those who sell less than 20,000 cartons per year, the fee is \$5 and a five minute license. For those in the hundreds, supermarkets who sell over 20,000 cartons, thus giving them over a \$100,000 gross profit from the sale of those cigarettes, they have a \$100,000 of profit, their fee is \$50 but still five minutes.

The only time for a larger fee, the \$5,000 fee, is for the distributors, the wholesale distributors, of whom I am told there are a couple dozen in the State of Maine. Those are the wholesale distributors who provide them and who are the essential figure in the tobacco distribution network. For those companies, however they are owned or how is legitimate Maine businesses we went to support them, their whole profit is in it, their fee is \$5,000 for a couple of dozen companies in the wholesale/distribution of this mammoth industry. For those purveyors who want to remain legal, we can support them. For those beginning smokers, we can cut it in half, not all, it would nice to cut all, but nobody has ever defended that, cut it in half, not to get to the hard-core that the Representative from South Portland referred to who were willing to go to those lengths to get their cigarettes. You can cut it in half, that is 800 premature deaths.

This is a major issue. From my point of view, this is the tobacco issue because it is the future of our state.

Mr. Speaker, I do request the yeas and nays.

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

Representative PFIEFFER: Mr. Speaker, Members and Colleagues of the House: I have here a letter from the R.J. Reynolds Tobacco Company, which was addressed to Day's News on Main Street in Brunswick.

Day's News is not only where we get our newspapers, it is the social center of Brunswick. It is a place where everybody shows up sooner or later. They also sell a great many cigarettes. The letters says in part: "Dear Retailer: Cigarette profits go up in smoke. Thousands of retail jobs are lost. That's the headline you could soon be reading unless you act now to protect your sales. Sales will suffer, your cigarette profits could drop through the floor. Tell your Representatives what you think about this issue. Tell them now. If you don't, your profits could plummet in a matter of months."

This was a letter given to me by the proprietor of Day's News. It refers to a potential federal tax on cigarettes, not to the legislature and before it, but it was given to me by the proprietor as an example of the sort of pressure that is being exerted on retailers in this state. It was counterproductive in his case because it annoyed him so much that he handed it to me and said, "See what they are trying to do to us." The proprietors support this legislation. He does not sell to students or children, he never will, and he feels that this legislation affords him a measure of protection.

I would urge you to vote against the "Ought Not to Pass" Report.

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

Representative TRUE: Mr. Speaker, Ladies and Gentlemen of the House: As you know, this is my first attempt to fly in front of this body. I will try to do it without quoting a lot of numbers, a lot of statistical information and I really don't have any notes, so I will speak to you from practical experience and from the heart. Some of you may, after I complete my speech, say, what in the world are you doing as an educator of four decades to come forth and to ask you to vote "Ought Not to Pass" on this bill?

I do this this morning because I don't believe it is the course of action that we should take and I happen to believe that education, the proper education, with a great deal of stability and a great deal of commitment and to have people perhaps, after decades of forgetting that when many of you grew up, you emulated people and the type of habits that they had.

Many of you know that I have always been interested in athletics and I would like to think that I did pay my dues and maybe I was a fair one. I remember my coach telling me not to ever smoke because I told him I wanted to be six feet tall. Well, take a look and I have never smoked in my life but that proves respect and I have preached that. Many of you have asked me, "What do you have on your lapel?" It is "Attitude." I have passed these out to many, many students with the idea that as long as their attitude is proper, they make keep it. I didn't give it to them, I would loan it to them.

I believe with the proper education in that way, and I ask each and every one of you in the House, if you feel so strongly about smoking and I certainly do, how many of you have personally taken the time to speak to the young people that you know are smoking?

I coached basketball for 35 years and a lot of my boys and girls that I coached smoked but when I found out about it, if some of you people talk to coaches you know about suicide runs and you think of the horse that is coming down the stretch and his tail is right down low and his tongue is hanging out — well,

that's what happens to an athlete if he smokes and if the coach really wants to teach him a lesson. I do not believe that enforcement of what is brought forth in this particular L.D. will do what we want it to do.

How many of you have thought about turning off your TV when you are watching the sports programs that are prevalent on TV, because they are sponsored primarily by the liquor and the tobacco industry? If we stop watching them, then those particular monies that are put aside for the athletes, and this might help us because I can tell you and I am sure you know that there are many industries who are making all sorts of money simply because of having the sports stars speak in favor of this, that or what have you. I am pleased to see that there is not as many of the athletes that are supporting liquor and tobacco. We have a current law actually that can help us enforce this but I don't believe that since it was passed that there is actually any enforcement whereby that they are brought to court.

A colleague here on the floor of the House spoke about the sting effect of the young people that was sponsored by the lung association and evidently it was also okayed by a sheriff in one of our counties to send young people 16 and 17 years old out to see how many cigarettes they could purchase and to put the name of the people who sold them to them because they were minors — now, the last time I checked the law, that is against the law and I take issue with that. I think with the proper education and getting back to where perhaps we were years ago, and I know many of you perhaps don't want to go back and I don't know as I want to do many things, but I tell you we have lost many things in our society because we have been afraid to stand up to be counted, we have been afraid to try to educate the youth through emulation or by taking an interest in young people and gaining the respect from them by not what you say but by what you do.

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

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: I will just briefly respond to the some of the comments made by the Representative from South Portland who I would expect him to be nothing other than a very responsible manager of his business. But, I would say to you that not everybody is as responsible as the kind Representative from South Portland.

There is a problem and it has been stated here over and over again that it is very easy for teenagers to buy cigarettes and what this bill does is that it addresses that problem. As it stands now, vendors have really nothing to lose if they do sell tobacco to minors, a small fine, they really don't think about it very much because it doesn't really matter to them. But, when you put at stake their license to sell tobacco, then they might think twice about doing it next time.

I just want to remind you that tobacco sales to kids is a billion dollar business and according to figures given to us by CDC, that half of the tobacco industry profits which is \$3.35 billion is derived from sales to smokers who become addicted as children. We need to think about some of what we are fighting here as a big industry with big money.

I have never denied the fact that education is important but it needs to go hand in hand with some effective and efficient enforcement.

The kind Representative from South Portland talked about the fact, why should we worry about selling it to minors because they can just have somebody buy it for them or anybody can give it to them and I say, is that really the attitude to have? I would say to you, get this to legislation to second reader and I will gladly put in an amendment that will take care of the second step of this problem which is to make the laws reflect the seriousness of procuring this substance and giving it to minors. Also, maybe we should think about enforcing laws in regards to possession of this substance by minors. If we really want to be tough about this particular problem, I think we need to really stop and think about what are we doing. I would gladly, if you take it to second reader, put in an amendment that takes care of that problem.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to make two points to this body that I don't know has been clearly laid out as it ought to be. I am going to read from a fax that was sent to the new Director of the Office of Substance Abuse on April 2nd of this year, 1993. It concerns what may happen to our federal funding as a result of the fact that our laws right now are ineffective in this regard. The fax states that "Section 1926 of the federal law indicates that states and they only receive their fiscal year 1994 substance abuse money if they have the appropriate law in effect. Our reading of the state's law must include several components. A copy of your state's law must be included as part of the application." It lists the major requirements and you will see that our law, right now, does not meet the requirements.

"It is important to examine your law carefully to ensure that it covers each aspect, that is, both sales and distribution must be covered, all tobacco products must be included and any manufacturer or retailer or distributor must be covered by the law. Other major requirements are as follows: first, enforcement efforts must be underway in most states by fiscal year, 1994, and some in fiscal year, 1995.

Second, random unannounced inspections are required to be conducted during the first applicable year.

Third, states are required to send their annual reports providing data on the 'extent of success' that the state has in achieving reduced availability of tobacco products to individuals under age 18." Lastly, "The state must report annually on the strategies they have used as well as those they will be employing to enforce the state law."

Our current laws do not meet the standards, this legislation will bring it up to that standard to meet the federal law.

Secondly, I would just like to point out that, from what I understand, there are young people who are greatly affected by this law that would very much support the pending legislation. I know that because here today are students from Gardiner Area High School where my constituents who cared so much about this that they formed a group in Gardiner to advocate for it. They testified on the bill before the Legal Affairs Committee and they are here today to talk to legislators. They have been handing out a fax sheet that is on pink paper which is the Kennebec Journal's endorsement of this legislation. I hope you will



take the time to read that and to talk to them because I think they know what they are speaking about. They are students and they know what is going to be effective for students such as themselves in preventing additional tobacco smoking.

I urge you to vote against the pending motion so that we can go on to accept the "Ought to Pass" Report.

Representative Daggett of Augusta was granted permission to address the House a third time.

Representative DAGGETT: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate the Representative from Gardiner, Representative Treat's clarification of the Signor Amendment by reading that fax. I would just like to repeat those issues to you so that you can hear them.

The main issue requested by the feds, demanded by the feds, is that we have a law on the books that prohibits the sale to minors. The other issues are, and these are right from the material which she read, enforcement efforts, inspections, annual reports and strategies. These are not items which require legislation. They certainly require action but not legislation.

The students from Gardiner did come and speak before us and were certainly a powerful influence. I would like to mention to you one thing that hasn't been mentioned today and that is a program which ran a couple of years ago, a community effort that was begun in a county northwest of here. In that program, the community became so concerned over teenage smoking that an effort was started at the community level, which is my understanding resulted in some real changes of youth smoking. That program happened without this legislation and that program or programs like that could be begun anywhere in this state. What is needed is the concern of people in this state to get programs begun in their communities in the same way that this group of students from Gardiner has become concerned.

This law is superficial and does not address the problem. It has a great title, it has a great goal, but there is absolutely no reason to believe that this law will take the place of a community mobilized around a problem. I would encourage you to join me in supporting the "Ought Not to Pass" Report and support programs in your communities that actually address the problem.

Representative Richardson of Portland was granted permission to speak a third time.

Representative RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House: Finally, let me say that the issue is not the Signor Amendment, the issue is not a great change of heart in Mainers, those are both facts but they are not the issue. The issue is the Doonsbury cartoons on your desks, the de facto signs. In over half of the purveyors of tobacco products, the stores that sell cigarettes, we can make the de facto sign dealing with behavior, cutting it in half by saying, "This store really for its own reasons does not sell cigarettes to minors."

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Augusta, Representative Daggett, 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. 123

YEA - Aikman, Aliberti, Anderson, Bennett, Bowers, Bruno, Cameron, Campbell, Carleton, Caron, Carroll, Cashman, Chonko, Clark, Clement, Cloutier, Clukey, Coffman, Cote, Cross, Daggett, DiPietro, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farnum, Farren, Foss, Gamache, Gould, R. A.; Gray, Greenlaw, Gwadosky, Hale, Hatch, Hichborn, Hussey, Jacques, Jalbert, Joseph, Joy, Kerr, Ketterer, Kneeland, Kontos, Kutasi, Lemont, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Michaud, Mitchell, E.; Nadeau, Nash, Nickerson, Norton, O'Gara, Paradis, P.; Pineau, Plourde, Plowman, Poulin, Pouliot, Rand, Reed, G.; Reed, W.; Ricker, Robichaud, Rotondi, Saint Onge, Saxl, Simoneau, Spear, Stevens, A.; Strout, Taylor, Townsend, G.; Tracy, True, Tufts, Vigue, Walker, Whitcomb, Young, Zirkilton.

NAY - Adams, Ahearne, Barth, Beam, Birney, Brennan, Chase, Dexter, Fitzpatrick, Gean, Heeschen, Hillock, Hoglund, Holt, Johnson, Kilkelly, Marsh, Melendy, Michael, Mitchell, J.; Oliver, Pendexter, Pendleton, Pfeiffer, Pinette, Richardson, Rowe, Rydell, Simonds, Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, L.; Treat, Wentworth, Winn.

ABSENT - Ault, Bailey, H.; Bailey, R.; Carr, Cathcart, Coles, Constantine, Heino, Larrivee, Lemke, Libby Jack, Martin, H.; Morrison, Murphy, Ott, Ruhlin, Skoglund, Small, Tardy, Thompson, The Speaker. Yes, 93; No, 37; Absent, 21; Paired, 0; Excused, 0.

93 having voted in the affirmative and 37 in the negative with 21 being absent, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

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

SENATE PAPER

Bill "An Act to Expand Opportunities for School-to-work Transition Services Utilizing the Jobs for Maine's Graduates Model" (EMERGENCY) (S.P. 509) (L.D. 1535) (Governor's Bill)

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

Was referred to the Committee on Labor in concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Representative Martin of Eagle Lake, Recessed until four-thirty in the afternoon.

(After Recess)

The House was called to order by the Speaker.

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

Bill "An Act to Ensure Economic Benefits from Purchases by Generators of Nuclear Power" (H.P. 289) (L.D. 376) (C. "A" H-347)  
 TABLED - May 20, 1993 by Representative TAYLOR of Cumberland.  
 PENDING - Motion of same Representative to Reconsider whereby the Bill was Passed to be Engrossed.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Taylor.  
 Representative TAYLOR: Mr. Speaker, Ladies and Gentlemen of the House: Recognizing the amount of business before us, I apologize to the House for holding this matter over. Through my inexperience, this matter passed without debate and I feel the issue deserves an explanation on the floor.

L.D. 376, An Act to Ensure Economic Benefits from Purchases by Generators of Nuclear Power — the title of the bill does not always help in describing what the bill is intended to do. This bill concerns the proper division of responsibility between the legislature, the Public Utilities Commission and power company management. The decision to repair or retrofit is a management decision and should be made by the company. This puts the risk of decision more directly on the utility management and thus the stockholders. The PUC should regulate and not manage. If PUC makes the decision to replace or approves the replacement of a steam generator, say, the ratepayer is definitely on the hook even if the investment doesn't work out and the plant closes prematurely and you can't recover the investment. Again, if the company makes the management decision that doesn't work out, the stockholders are much more at risk. If the PUC does its job properly, the ratepayers will be protected.

Vote to protect your constituents' last ratepayer, please reject the Minority "Ought to Pass" Report and accept the Minority "Ought Not to Pass" Report.

Mr. Speaker, I would request a roll call.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I hope when you vote today that you don't vote to reconsider. Last week, the House gave us a strong, strong vote and I hope when you vote today, you vote the same way you did last week.

The only thing we are asking for of the PUC where these organizations spend money to do it prudently. I hope you all vote with us.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I hope you will give us the opportunity to reconsider this vote so we can have a

full-blown debate that this very important issue deserves and I hope you will vote for reconsideration as a courtesy so we may have a very informative debate on this issue.

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 Cumberland, Representative Taylor, that the House reconsider its action whereby L.D. 376 was passed to be engrossed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 124

YEA - Aikman, Anderson, Ault, Barth, Bennett, Birney, Bruno, Cameron, Campbell, Carleton, Chase, Cloutier, Clukey, Cross, Dexter, DiPietro, Donnelly, Driscoll, Farnum, Farren, Foss, Greenlaw, Gwadosky, Hichborn, Hillock, Hussey, Jacques, Johnson, Joy, Ketterer, Kneeland, Kutasi, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Michaud, Murphy, Nadeau, Nickerson, Norton, O'Gara, Ott, Pendexter, Pendleton, Plowman, Pouliot, Reed, G.; Reed, W.; Robichaud, Rotondi, Rowe, Simoneau, Skoglund, Small, Spear, Stevens, A.; Swazey, Taylor, Thompson, Townsend, G.; Tracy, True, Tufts, Wentworth, Whitcomb, Winn, Young, Zirkilton.

NAY - Adams, Ahearne, Aliberti, Beam, Bowers, Brennan, Caron, Carroll, Cashman, Chonko, Clark, Clement, Coffman, Coles, Cote, Daggett, Dore, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Hale, Hatch, Heeschen, Hogle, Holt, Jalbert, Joseph, Kontos, Melendy, Michael, Mitchell, E.; Mitchell, J.; Nash, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Plourde, Poulin, Rand, Richardson, Ricker, Rydell, Simonds, Stevens, K.; Sullivan, Tardy, Townsend, E.; Townsend, L.; Treat, Walker, The Speaker.

ABSENT - Bailey, H.; Bailey, R.; Carr, Cathcart, Constantine, Heino, Kerr, Kilkelly, Larrivee, Martin, H.; Morrison, Ruhlin, Saint Onge, Saxl, Strout, Vigue.  
 Yes, 76; No, 59; Absent, 16; Paired, 0; Excused, 0.

76 having voted in the affirmative and 59 in the negative with 16 being absent, the motion to reconsider did prevail.

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

Representative CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: L.D. 376 would simply require Maine Yankee to obtain pre-approval from the Maine Public Utilities Commission for any plant retrofit for over \$100 million.

You received a sheet last week in opposition to L.D. 376 and under Item #1 where it says the facts, the first sentence reads, "The bill is only the first step in a new and dangerous layer of regulations." It goes on to say, "It will be tempting in the future to reduce this threshold from \$100 million to \$100,000." This implies that the members of the House or the members of the legislature, because we

have supported a \$100 million threshold regarding this issue, we would then probably lose all common sense and in the future vote to lower that to \$100,000, which in my opinion, would cause a real bureaucratic nightmare for the utilities. I find this argument as lame as it is insulting.

Item #2 under that says that L.D. 376 is unnecessary, it says that the PUC and the Public Advocate can already substantially affect Maine Yankee rates. In discussing this in the Utilities Committee, and we did discuss this at great length, we found that this was not the case. In a letter I have here from James Buckley, General Counsel of the Maine Public Utility Commission, he says, "Because the sale of electricity by Maine Yankee is wholesale, in other words, CMP, Bangor-Hydro and Maine Public Service, all resell electricity to ratepayers, Maine Yankee's rates are regulated by the Federal Energy Regulatory Commission pursuant to the federal Power Act. In other words, the Maine PUC is preempted from regulating Maine Yankee's rates."

Based on that, what you are looking at is Maine Yankee could today, as the law stands, do a major plant retrofit. A retrofit is not an emergency breakdown, a retrofit is when you look at a piece of equipment, you know that it has to be repaired, you know this ahead of time, you make plans for it — \$100 million you want to keep in mind, you could rebuild any other electric generating plant in the state from the ground up for less than \$100 million.

I don't believe this is a widespread, as they said, new and dangerous layer of regulations, I think this is our only chance to make sure that that type of an expense is not passed directly on to Maine's ratepayers.

In all of the other power plants and other situations, the Maine PUC has the right to disallow increased costs or imprudent spending through the rate design process. That is not the case with the wholesale generation at Maine Yankee. It is totally determined by the FERC so I would encourage you, therefore, to vote for this to be engrossed, vote green and protect the Maine ratepayers.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I truly appreciate the opportunity to debate this very important issue.

The Maine PUC now complains that it is overburdened and overworked and understaffed. When asked in committee how long would this type of process take you, this duplicative process that FERC now does, they estimated anywhere from nine months to a year and they could not calculate how many person hours would be lost doing this sort of work, which means that the already over-regulated utilities in some cases, would be waiting at least another year before rate designs would be redone so that your constituents might have a shot at getting a lower utility bill. Now, that's not a guarantee, there are no guarantees in this life.

What the PUC can do now through this wholesale client is, if regulated utilities, Utility X, were to purchase power from this wholesale client, like any other wholesale business, that is now regulated through FERC, the PUC can say it was an imprudent purchase by that utility and disallow that to go through the rates, which means people that have investments in Utility X would then be responsible

for that extra money. Now, when you are making business decisions when the board of Business X is deciding if they are going to purchase the power from Maine Yankee. If it is a prudent decision, the PUC will allow it to go through; if it is an imprudent decision, then Utility X's stockholders will bear the burden. Really, when it is a business decision on that basis, that's where the risk should lie. If the PUC makes that approval ahead of time, they do not have any objectivity, any leverage, left to review that later. They are morally obliged to pass that on directly to the ratepayers.

Now, it is very fine tuning and kind of silly sounding at points but the difference is to me, where should the risks lie? Should it be with the Utilities Board of Directors and their stockholders or should it be with your ratepayers?

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I just wanted to respond to a couple of points made by the good Representative from Presque Isle, Representative Donnelly. He mentioned several times about this being a good business decision and I want to remind you that CMP, Bangor-Hydro and Maine Public Service are all part owners of Maine Yankee. As far as being able to disallow the rates set by the FERC in a later rate case, I don't believe that that is the case, I don't see how you can find it more prudent for those companies which own part of Maine Yankee to buy from another individual rather than buy from their own plants. I think the possibility of this becoming imprudent is very slim, indeed.

I also wanted to point out that the Public Utility Commission and the Public Advocate supported this bill very strongly. They do not feel that they have the adequate supervision right now to protect Maine ratepayers and they very much want to have this bill.

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

Representative DONNELLY: Mr. Speaker, Ladies and Gentlemen of the House: As we are going through the process right now, a very painful process of trying to rightsize government, a rightsize bureaucracy, and allow some freedom in decisions, it certainly is not surprising that a bureaucracy would try to grab more power and more authority to justify itself.

I think the Maine PUC does a lot of good but when they are trying to reach it, they are complaining at one time that they are overburdened and overworked and, on the other hand, demanding more work, just doesn't make sense. It sounds to me like a justification and when they are trying to self-justify themselves, I don't want to assist them in that. I think we already have the FERC, which does this job, and I think we have the PUC, which then reviews prudence and I think we ought to keep it as it is for the ratepayers.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: I want to echo the words of the good Representative from Old Town, Representative Cashman. Those of us who signed on to the Majority "Ought to Pass" Report did so knowing full-well that the PUC already has pre-approval responsibilities for other major purchases in the area of conservation,

hydro, utility generating units or purchases from other utilities. All of those currently require pre-approval by the PUC. They chose to take on this additional responsibility because, unlike what the Representative from Presque Isle said, their primary concern is ratepayers. Because of that primary concern, they are looking at a process that would allow them to review major expenditures, keep in mind the threshold is \$100 million before that becomes a cost that has to be negotiated in a rate design case after the purchase has already been made.

I urge you to support the majority of the committee and vote for passage to be engrossed.

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

A vote of the House was taken.

64 having voted in the affirmative and 49 in the negative, L.D. 376 was passed to be engrossed as amended by Committee Amendment "A" (H-347) and sent up for concurrence.

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

SENATE DIVIDED REPORT - Majority (12) "Ought to Pass" as amended by Committee Amendment "A" (S-156) - Minority (1) "Ought Not to Pass" - Committee on Labor on Bill "An Act to Improve the Unemployment Collection Process for Employer Contributions" (S.P. 264) (L.D. 802)

- In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-156)

TABLED - May 21, 1993 (Till Later Today) by Representative PARADIS of Augusta.

PENDING - Acceptance of Either Report.

Subsequently, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (S-156) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, May 25, 1993.

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

An Act to Revise the Correctional Facility Board of Visitors Laws (H.P. 212) (L.D. 274) (C. "A" H-186)

TABLED - May 21, 1993 (Till Later Today) by Representative PARADIS of Augusta.

PENDING - Reconsideration (Returned by the Governor without his approval)

On motion of Representative Paradis of Augusta, retabled pending reconsideration (Returned by the Governor without his approval) and specially assigned for Tuesday, May 25, 1993.

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

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-357) - Minority (4) "Ought Not to Pass" - Committee on Human Resources on Bill "An Act to Prohibit Smoking in Restaurants" (H.P. 496) (L.D. 654)  
TABLED - May 21, 1993 (Till Later Today) by Representative TREAT of Gardiner.  
PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: This the third and I hope the final bill dealing with smoking that we have been dealing with this week and last.

It concerns smoking in restaurants. As you know from my debate last week, the bill that we discussed at that time and enacted did not address this issue of smoking in restaurants. It said basically that this will be covered by existing smoking laws and if we choose to amend those, we can do that at this time.

The bill before you, L.D. 654, does in fact change the existing smoking in restaurants rules. It does so by banning smoking in restaurants. This bill received a strong endorsement of the majority of the Human Resources Committee. It was a 9 to 4 bipartisan vote of the committee. It was also supported by a large number of proponents, including the Maine Office of Substance Abuse, the Public Health Association, the Bureau of Health in the Department of Human Services, the Coalition on Smoking on Health, the Maine Innkeepers Association has since supported it in its amended form and various restaurants. Although the Restaurant Association opposed the initial bill before the committee, I can tell you from being on the committee two years ago, it was a totally different situation than at that time where we had very strong opposition from restaurants. This year a great deal has changed and, as a matter of fact, we had a number of restaurants come to the committee saying that they want this bill to be enacted.

What is so different today? First of all, we have the EPA report and I will not bore you with the details of that report because you have heard it already. However, it does state that secondhand smoke is a Class A carcinogen.

Secondly, the restaurants have found that the existing law simply doesn't work. It doesn't work for the restaurants and it doesn't work for the public. The problem is that the smoking areas, particularly in small restaurants where you can't have an enclosed area that separates out that smoking part from the non-smoking part, simply seeps into the rest of the restaurant basically affecting everybody. A lot of the smaller restaurants have wanted to ban smoking but they have felt that they would be at a economic disadvantage if they were to do so.

I wanted to read from a couple of letters that we did get from restaurants talking about this issue because I think it was very surprising to me that we actually did get a fair number of restaurants supporting us. One letter came from the Harborside Restaurant, which is in Boothbay Harbor. They said, "It has proven extremely difficult for us to segregate smokers and non-smokers as our establishment is small with tables close together. I feel that secondhand smoke is unpleasant and

unhealthy and that it is not fair to subject non-smokers to it. I would urge the legislature to pass a law which prohibits smoking in restaurants."

A second letter came from the Roma Restaurant in Portland. It said, "Currently, I have 36 tables in six separate diningrooms of which I have a total of four tables in one diningroom for smokers. Many days for lunch and dinner, we have no patrons who request a smoking diningroom. Some of my wait staff, who are non-smokers, do express discomfort working in a smoking diningroom. Not only is the smoke hazardous to my employees, it also greatly increases the overall dirtiness of the walls in our smoking diningroom requiring more frequent washing. I am strongly in favor of banning smoking in all restaurants, excluding bars and lounges."

Finally, a third letter came from Joyce's Lobster House in Machias and they raised several issues, one is the health issue, secondhand smoke for customers, concerns that they might be sued as a result of health impact on employees and customers, possible productivity loss for employees who take too many cigarette breaks and are affected by cigarette smoke and sanitation problems.

The amendment that the committee endorsed does make an exception for lounges and bars. We have discussed that with the previous debate and the feeling was that we were going to do the best we could to level the playing field but that lounges and bars are not in fact restaurants and in the committee definition they are defined as a place that derives more than 50 percent of its revenue from alcohol sales and entertainment fees. Obviously, that is not a restaurant. Restaurants are all treated the same.

The other exception is that if a restaurant hires out a room for private parties, that they don't have to ban smoking from that private party if the private party would like to have smoking. This is consistent with non-restaurants, such as the Elks Lodges and such but are allowed to do that under the other law so that creates a level playing field in terms of private parties. It does exempt out lounges and bars.

We think this is a fair law and a good one at this time. The facts have changed as to the impact of cigarette smoke on customers of restaurants. Many restaurants did support this, we know that many restaurants also are not in favor of it but, on balance, the majority of the committee felt that this was a step forward and a positive one at that.

We would urge that you support the Majority "Ought to Pass" Report as amended.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: Just so you won't be misled in thinking that restaurants across the state support this, a few may, I don't doubt that, but I have before me (I think you have on your desks) a letter from the Maine Restaurant Association and they oppose this legislation.

This is going too far, it is putting a hardship on restaurants, especially down in my area on the border area where we get a lot of Canadian customers and they just will not be told where they can smoke, they just won't come to those restaurants, that's all there is to it, they will stay over in Canada and have their meal. We will lose a lot of business on this.

Current law takes care of it, if you own a restaurant in this state and you don't want smoking

in your restaurant, you have every right under the law to say "no smoking." You can take that chance in the market but this smacks of Big Brother. One thing that really irritates me more as I get older is the term "experts say" — well, experts say one thing one day and then they turn around and reverse themselves the next day. I don't accept that at all. This is Big Brother — if you own a restaurant and you don't want smoking, you don't have to have smoking. If you are a non-smoker and you don't want to go to a restaurant that allows it, then you can go to one that doesn't have it. There are many now that are starting to have non-smoking. Fine. Talk about a choice bill, I will tell you what, I was pro-choice and I am pro-choice on this one too. This is just going too far. It is mandating to a point where we are trying to reach some goal of health and we are not going to get it. We are not going to make it and this will not do it.

I urge you to please defeat this ill-thought out legislation.

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

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I think it is important to address the choice of some people who have not been brought into this discussion at this point. There are 35,000 restaurant employees in the State of Maine, many of them are young and many of them could be pregnant. It is estimated that the most heavily exposed restaurant workers inhale the equivalent of actively smoking a pack and a half to two packs a day of cigarettes.

Some of the testimony that we heard was about a man in California, a 54 year old man, non-smoker without a family history of heart disease and a vegetarian who had had a heart attack. He was openly awarded a large financial settlement as a result of having to work for nearly 5 years in a restaurant where smoking was permitted. The basis of this settlement was the contribution of his workplace associated to ETS and to his heart condition. Of course, he did not represent the potentially most population of employees, pregnant women. So yes, those of us who do not smoke may choose not to frequent places which allow smoking but those people who are stuck with what few jobs there are in Maine these days may not have that same choice and I think we need to consider them as well.

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

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: Just bear with me for a few minutes, please. My good colleague from Portland made the comment that "what few jobs are left", I agree with you, there are going to be less jobs.

I think it is time that we, the so-called legislators, let the people who own the businesses run the businesses. They pay the property tax, they collect our sales tax and send it to Augusta, and God forbid if we should be late, then we pay a penalty. I say this, let the man who owns the business, he knows best. If he has customers that are telling him that they do not like the smoke, then it is up to him to decide that they shouldn't smoke. If he wants to smoke, he should have that right to allow his patrons to smoke.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: I would like to discuss the jobs issue, I think everybody who is worth their salt ought to be concerned about jobs. Looking at the history of smoking legislation back to 1986, there was a bill introduced then dealing with smoking in retail stores over 4,000 square feet. The same arguments were presented then. But a little bit different, after meeting with a lot of the retailers across the state, I found out that they wanted non-smoking in their stores because of the cost and the health consideration of their employees. The real key was, is it going to take jobs away, is it going to cost money? Clearly, that should be their prime concern as businessmen and it didn't, it saved millions across the state because the level playing field was created in the retail market across the State of Maine that actually enhanced business in the retail operations.

We talk about pro-choice and rights, it brings to mind the public hearing that we had and this young lady with Cystic Fibrosis who in the young 18 years of her life was never able to go into the mainstream of public society and go out to dinner with her friends because the constant fear that if she were exposed to cigarette secondhand smoke that it would trigger a reaction that would send her back into the hospital. Here is a young lady that carried oxygen with her that was inserted into her chest cavity just so she can breathe and move about. When we talk pro-choice and rights, that young lady's rights to breathe fresh air in public places oversees anybody's right to pollute the air around her. So, let's deal with the health issues the way they are and clearly we know that secondhand cigarette smoke is now considered a Class A carcinogen.

How outraged would we be if people ran around spraying benzene over all of us? How outraged would we be if they were spraying that on our children? Let's get to the focus of the real issue here.

I have talked to a lot of restaurants across the state and they have called me with their concerns. I have discussed with them what I just discussed with you and they want this legislation, the ones that I have talked to but some do not. The ones that do not have concerns about losing customers and that is valid.

Let me talk to you about Randy Carsi, who owns the Miss Portland Diner in Portland. If there ever was a Blue Collar Diner in Maine, it is probably it. It is Cheers of the fast food establishments of the old guard. He banned smoking in his restaurant voluntarily because he had a deep concern of the health of his young workers in the establishment, especially the young ladies, the ones that were pregnant which secondhand smoke can definitely hamper a pregnancy. He found out that his business stayed flat or increased. I asked Mr. Carsi, "How do you know that the smokers are not coming anymore?" He said, "Well, I don't see any decrease in the smokers, they still keep coming." I said, "How do you know?" He said, "Well, I empty two five gallon containers daily outside my restaurant that are half full of cigarette butts so clearly somebody is putting those in there and people are still coming." He still has a good product and they will still come.

To get back to an issue that probably hasn't been debated here but we should all be involved in the cost of the health care reform, it affects everybody here, it affects our budget, it affects everything we

do. This is one of the keys to that complex formula and that is to deal with health care of those who don't smoke. Why shouldn't we try to help these people? They have a right to go to these places. We have supported the American's With Disabilities Act, the handicapped people that want to get into the mainstream. People have a mindset that those are people with wheelchairs and need a ramp, they are not, these asthmatic children, these are people with Cystic Fibrosis, these are people that have an allergy to this sort of thing, these are people that have, for one reason or another, ill-effects to secondhand smoke. Sure, they can get in there but they can't breathe — come on, let's get with the program here.

As far as people coming into the state, staying in Canada because they can't smoke, well, they can smoke, they can come into our restaurants in the State of Maine that have lounges and bars in the restaurants and we have already made the exception for those people and they can have their cigarette in there. We made that exception to accommodate those people, that we were concerned that, if you want to take your family out for a meal, which everyone should have the right to do, they should have a right to be guaranteed that they can be in a smoke-free environment when they go out.

Our society has dealt with this issue over the last ten years in being very progressive and Maine has been like that. This bill has already passed in the State of Vermont where you cannot smoke in restaurants. They have the same amendment to their bill dealing with lounges. So, we must think of those that have the primeval right for fresh air and that supersedes anybody's right to pollute that. So, if you keep that in mind, I would surely hope that you would vote for the Majority "Ought to Pass" Report.

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

Representative KERR: Mr. Speaker, Men and Women of the House: It is so nice that others here want to regulate the industry that I am part of and that is the hospitality industry. I am an owner of a restaurant, Class A restaurant, and this does not give an equal playing field for those that may think so.

What this bill does is it assumes that a tavern does not serve food. It assumes that lounges don't serve food, it assumes, as the Representative from Gorham states, that they have done this in Vermont — our laws are different than those in Vermont. Under our lounge license, you must serve food from the time you open to the time you close. It does not have to be a sit-down restaurant, you can serve sandwiches. In order to be a Class A restaurant under our licenses, you must serve food from the time you open with three meals. I said earlier that a tavern may serve food. This bill will create an uneven playing field.

If you look at Vallee's Restaurant, they do have a lounge in that restaurant, but that is all encompassed under one license, a Class A restaurant. They don't keep separate books, that's a Class A restaurant. I, myself, have a Class A restaurant, I do have entertainment, I do serve food from the time I open to the time I close. Two streets over is a motel that has a lounge, serves no food, just the lounge. They will be allowed to smoke in that

establishment, in my establishment they cannot smoke, that is not a level playing field.

I think the good Representative from South Portland, Representative DiPietro, put it plain and simple, those of us that are in this industry, and we all enjoy that license plate that says "Vacationland", we can regulate ourselves now. For those of us that do not want to have smoking in any establishment, whether it be a lounge, a tavern or Class A restaurant, you can put a sign up and say "No Smoking!" Nothing prohibits you from doing that today and I would only urge you to stay out of our business. We in the hospitality industry understand that we like to accommodate people and when people come in and say they want a non-smoking area, if we don't have enough space, we will create that space. We are used to accommodating people so I would only hope that you would vote against the pending motion.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to vote against the pending motion on the floor. You have heard the arguments for and against. It certainly is up to the businessman to set the rules and regulations or policies of his own establishment. It is certainly not the business of the legislature to start saying we don't like the playing field you've got so we are going to change it so everybody is going to abide by our playing field. We don't pay their bills and we certainly shouldn't be trying to run their business.

This bill also, because of the lounge or tavern Part C in this bill, means that places like Ardito's, Margaritas, the Roseland, the Senator, the Sand Dollar, Slate's — they will not be able to serve — they will either have to go "No Smoking" or they will have to build a wall and close off the lounge or the bar. I don't believe, ladies and gentlemen, that it is within our purview that we must regulate that much, we tell them how to keep it clean, we tell them to have a rest room, so many seats within a restaurant, we almost tell them what they can serve on the plate. I do believe that if they feel that their business will stand "No Smoking" they can make that decision.

I urge you to vote against the pending motion.

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

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I rise in opposition to this legislation. In my area, the town of Rumford, Mexico adjoining, there are several small restaurants. We have lost Bass Shoe Company, we have lost Wood Novelty Factory, we have lost Diamond International, several hundred jobs in our area. If this legislation passes, we are going to lose a lot more job because those restaurants will have to close.

Not only should you be concerned about the jobs, you should also be concerned about the sales tax that won't be collected, the income taxes that won't be sent to Augusta because the restaurants won't be doing business or the people won't be working for them. My telephone calls have been 10 to 1 against this legislation.

I am a non-smoker, have been a non-smoker all my life and many of the calls that I received came from non-smokers, I urge you to oppose this legislation.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women

of the House: I just wanted to clarify what the bill does and does not do so that you can at least make up your own mind based on how it really should be interpreted.

If a restaurant has a bar in the restaurant, they may allow smoking in that bar as long as it meets the definition which is in our amendment. That means that 50 percent or more of the revenues of that part of the restaurant must be derived from alcohol or entertainment, not food. I suspect that most bars, such as the one in Representative Kerr's restaurant, would meet that definition. There is an added requirement that it would have to be in an enclosed room with a door that actually closes. That has been the whole problem now where we have smoking areas which are no in an enclosed area and are not set apart.

We understand that there are going to be restaurants that have bars now, that the bars are set out in the middle of the room, it may not be possible to economically reconstruct that restaurant to deal with our problem, we understand that. There will be some consequences for this, there may be economic consequences initially but we believe that ultimately this is not going to affect restaurants in general. You have only to look at some of the experiences that we have had already in dealing with, let's say, banning smoking altogether, on airlines. It was considered a totally radical proposal at the time, everyone claimed that people would not fly on airlines in the event that they couldn't smoke, they had to be there x-number of hours etcetera and yet now it is something that is routine, people expect it, the outcry has disappeared.

Going into a restaurant, if you have to go outside for a quick smoke or smoke right ahead of time and then smoke afterwards, is not such a burden when we are dealing with the public health of the 75 percent of the population that does not smoke and does not want to be exposed against their will of a Class A carcinogen. The fact is that many people cannot go to the restaurant of their choice right now because those restaurants do allow smoking and they simply don't have a choice in that matter.

I suggest that you do vote for the "Ought to Pass" Report and when the vote is taken, I would request the yeas and nays.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I guess that I, too, would hope that you would not support this motion on the floor.

As you know, Maine still has one common boundary with other states, the state does happen to be the State of New Hampshire where their laws are a lot less lax than ours. Therefore, you talk about an equal playing field — those little restaurants up and down the border of the Maine and New Hampshire border will be on a much disadvantage playing field. You have taken most of our business down there and our economic base away from us with taxes and such things as that, please don't take away our little restaurant businesses with this regulation.

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

Representative HEESCHEN: Mr. Speaker, Ladies and Gentlemen of the House: It has been stated here that the existing law is working perfectly fine and this is a useless piece of legislation. I think the mere

fact that this bill is here before us is ample demonstration to the fact that the existing law is not working. It is very rare that we ever get a piece of legislation at the first instance of something being a problem, it usually takes a long — to paraphrase the Declaration of Independence — a long train of abuses.

It has been known for years that secondhand smoke is a problem. It has also been known that many people are excluded from even going to restaurants because they can't find any smoke-free air. Too many restaurants think it is just adequate that there is a sign saying "No Smoking in this Area" but that is absolutely no guarantee of smoke-free air in that area.

In the past and even this year, I have introduced legislation that in fact recognizes the needs of some people to indulge in a bit of nicotine along with their caffeine and sucrose in the morning for instance. These bills would have, I believe, provided for smokers for their considerations through proper and wise design of ventilation systems. Unfortunately, the restaurants said too often that this is too hard for us, too costly for us, and continued to pretend that a mere sign or policy can do the trick. I think that it is this long train of denial that has led us to this bill and I do urge you to support the "Ought to Pass" Report.

I think there have been ample opportunities to address the problem before, restaurants have chosen to ignore them, this is the result.

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

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: I have smoked in the past and it has been now two days since I haven't smoked (got the old patch right here) and if I happen to get through this closing days of the legislature without smoking, I will expect a rose from all of you.

I have to take issue with the good Representative from Gorham, Representative Hillock, I have a constituent in my district, Mr. Richard Leeman, he is President of the Maine Restaurant Association, and I recently received a phone call from Dick and he simply stated to me — he said, "Look Pete, I don't allow smoking in my restaurant, it is a beautiful restaurant on the South Portland side of the Portland waterfront. We think that is best for our business but as President of the Maine Restaurant Association, we want to be able to police our own business. We don't want the legislature micromanaging our business."

I can agree with all the legislators in the House and we all know that smoking is not a good thing, I am trying my hardest to stop. It is not a good thing and I don't think there is anyone here in the House who would say that it is a good thing but my reason for standing up today is simply to defend the President of the Maine Restaurant Association, a constituent of mine, who says "Let us take care of our own business, don't micromanage it."

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

Representative DONNELLY: Mr. Speaker, Ladies and Gentlemen of the House: I guess I should start off by apologizing for rising so often today but I'm not going to.

I wanted to take issue, first of all, with what a

good friend of mine from Gorham, Representative Hillock, said and that is about the right of someone to go to a restaurant. I don't think anyone has the right to go into a restaurant or has the right — it is a business and if you choose to go in there, that's your choice. Now that's about as far as I will disagree with him so I don't mislead the opponents of this bill because beyond that what we have is — you do have the right to breathe and since smoking has been declared a Class A carcinogen, that means it is lethal to everyone around someone who smokes, it is no longer a choice of the people walking in or out of a restaurant, it is a matter of life or death. I don't think it is fair to put other people at risk when they are out attending functions, going places, you are threatening the health, as we heard from Representative Plowman from Hampden yesterday of children. Before this was a Class A carcinogen, I would have thought that this was a choice if a representative from anywhere decided they wanted to smoke, they were risking their own health but when you start killing the people around you with your habits, that's when it is no longer your choice, it is a matter of society's choice. I think it is in society's best interest that we vote to pass this bill.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: If people review what I just said earlier about the Maine Restaurant Association, clearly they did not endorse this bill, I talked to Dick Leeman, owner of the Channel Crossing Restaurant in South Portland and he personally thought it was a good idea because he is very health conscious of his employees. He could not speak for the restaurant association itself because they had not tabulated the concerns of all its members. Only the Maine Innkeepers Association, as I repeated before, has endorsed this bill.

Again, let's look at the numbers here, 75 percent of the people in the State of Maine do not smoke. They have got to eat somewhere and it is rare that we allow 25 percent of a population to dictate the health and social habits of the remaining 75 percent so we should look at that and clearly understand how serious this health danger is to all those that are involved.

Children do not have a say here, they do not have a vote, but they breathe the same air as we do and we should allow them the opportunity to breathe as fresh air as possible.

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

Representative KERR: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to be as simple as possible with this bill. I think we all have to realize that if we are looking out for children, children accompanied by a parent are allowed to go into a lounge or tavern. They are allowed to do that right now under our laws.

What this bill does is it creates a competitive disadvantage between the people that are in the hospitality industry. The bill does that and, again, let the establishments that want to have smoking have it and for those that don't, let them have the opportunity to put up the sign.

The law is fine the way it is today. You are not going to be able to regulate this law under Section



2c where they have a definition of tavern and lounge. It is not consistent with the Maine liquor laws so, again, I would urge you to vote against the pending motion.

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

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

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

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: Just briefly, I just want to make it very clear that Mr. Leeman from the Channel Crossing Restaurant in South Portland, Dick Leeman, a very good friend, specifically told me (and this is in reference to the good Representative from Gorham) that "we do not want the State Legislature to micromanage our business, we want the business to police itself." I want to make that very, very clear. I feel like I have been challenged on this and I have to stand to make sure that my character and integrity remain unimpugned.

The SPEAKER: The pending question before the House is the motion of the Representative from Gardiner, Representative Treat, that the House accept the Majority "Ought to Pass" Report.

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

Representative RYDELL: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Greene, Representative St. Onge. If she were present and voting, she would be voting nay; I would be voting yea.

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

ROLL CALL NO. 125

YEA - Adams, Ault, Barth, Beam, Bennett, Bowers, Brennan, Bruno, Cameron, Chase, Dexter, Donnelly, Driscoll, Faircloth, Farnsworth, Fitzpatrick, Heeschen, Hillock, Hoglund, Holt, Johnson, Ketterer, Kutasi, Lindahl, Lipman, Look, Lord, Marsh, Melendy, Mitchell, J.; Oliver, Pendexter, Pinette, Plowman, Richardson, Robichaud, Rowe, Simonds, Spear, Townsend, E.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Whitcomb.

NAY - Ahearne, Aikman, Aliberti, Anderson, Birney, Carleton, Caron, Carroll, Cashman, Chonko, Clark, Clement, Cloutier, Clukey, Coles, Cote, Cross, Daggett, DiPietro, Dore, Erwin, Farnum, Farren, Foss, Gamache, Gean, Gould, R. A.; Gray, Greenlaw, Gwadosky, Hale, Hatch, Hichborn, Hussey, Jacques, Jalbert, Joseph, Joy, Kerr, Kneeland, Kontos, Libby Jack, Libby James, MacBride, Marshall, Michael, Michaud, Mitchell, E.; Murphy, Nadeau, Nash, Nickerson, Norton, O'Gara, Ott, Paradis, P.; Pendleton, Pineau, Plourde, Poulin, Pouliot, Rand, Reed, G.; Reed, W.; Ricker, Rotondi, Simoneau, Skoglund, Small, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Tardy, Taylor, Thompson, Townsend,

G.; True, Tufts, Winn, Young, Zirkilton.

ABSENT - Bailey, H.; Bailey, R.; Birney, Campbell, Carr, Cathcart, Coffman, Constantine, Dutremble, L.; Heino, Kilkelly, Larrivee, Lemke, Lemont, Martin, H.; Morrison, Pfeiffer, Ruhlin, Saxl, Vigue, The Speaker.

PAIRED - St. Onge (Nay)/Rydell (Yes).  
Yes, 46; No, 83; Absent, 20; Paired, 2; Excused, 0.

46 having voted in the affirmative and 83 in the negative with 20 being absent and 2 having paired, the Majority "Ought to Pass" Report was not accepted.

Subsequently, the Minority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

TABLED AND TODAY ASSIGNED

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

Bill "An Act to Enhance Voters' Rights in Budget Approval of School Districts" (EMERGENCY) (S.P. 252) (L.D. 771) (C. "A" S-163)

TABLED - May 21, 1993 by Representative CARROLL of Gray.

PENDING - Passage to be Engrossed.

On motion of Representative Carroll of Gray, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-163) was adopted.

The same Representative offered House Amendment "A" (H-407) to Committee Amendment "A" (S-163) and moved its adoption.

House Amendment "A" (H-407) to Committee Amendment "A" (S-163) was read by the Clerk and adopted.

Representative Chonko of Topsham offered House Amendment "B" (H-416) to Committee Amendment "A" (S-163) and moved its adoption.

House Amendment "B" (H-416) to Committee Amendment "A" (S-163) was read by the Clerk and adopted.

Committee Amendment "A" (S-163) as amended by House Amendment "A" (H-407) and "B" (H-416) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (S-163) as amended by House Amendment "A" (H-407) and "B" (H-416) thereto in non-concurrence and sent up for concurrence.

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

An Act Related to Mortgage Companies (S.P. 177) (L.D. 591) (C. "A" S-121)

TABLED - May 21, 1993 by Representative PARADIS of Augusta.

PENDING - Passage to be Enacted.

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

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

An Act Regarding County Contingent Account Limits (S.P. 286) (L.D. 856) (C. "A" S-116)  
 TABLED - May 21, 1993 by Representative PARADIS of Augusta.  
 PENDING - Passage to be Enacted.

On motion of Representative Joseph of Waterville, retabled pending passage to be enacted and specially assigned for Tuesday, May 25, 1993.

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

Bill "An Act to Improve Communication between the Executive and Legislative Branches" (H.P. 419) (L.D. 538)

- In House, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-251) on May 18, 1993.

- In Senate, Minority "Ought Not to Pass" Report read and accepted in non-concurrence.  
 TABLED - May 21, 1993 by Representative PARADIS of Augusta.

PENDING - Motion of Representative TRACY of Rome to Recede and Concur. (Roll Call Ordered)

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

Representative FAIRCLOTH: Mr. Speaker, Colleagues of the House: I ask you to please oppose the motion to recede and concur regarding what has become known as the "question time" bill. The Bill received a Majority "Ought to Pass" Report in the committee, as you are well aware and it was passed in this House. There are avenues for compromise with regard to this measure. In another body, there are members including some, shall we say, prominent members who are very open to compromise in a possible Committee of Conference. So, please, I hope you will press red and oppose the motion to recede and concur.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of the Representative from Rome, Representative Tracy, that the House recede and concur. Those in favor vote yes; those opposed will vote no.

ROLL CALL NO. 126

YEA - Aikman, Anderson, Ault, Barth, Birney, Bruno, Cameron, Carleton, Chonko, Clukey, Cross, Daggett, Dexter, Donnelly, Farnum, Farren, Foss, Gould, R. A.; Gray, Greenlaw, Hillock, Hussey, Jalbert, Joy, Kneeland, Kontos, Kutasi, Lemont, Libby Jack, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Murphy, Nash, Nickerson, Norton, Ott, Pendexter, Pendleton, Plowman, Poulin, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Strout, Taylor, Thompson, Tracy, True, Tufts, Whitcomb, Zirkilton.

NAY - Adams, Ahearne, Aliberti, Beam, Bennett, Bowers, Brennan, Caron, Carroll, Cashman, Chase, Clark, Clement, Cloutier, Coles, Cote, DiPietro, Dore, Driscoll, Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gwadosky, Hale, Hatch,

Heeschen, Hichborn, Hoglund, Holt, Jacques, Johnson, Joseph, Kerr, Ketterer, Lemke, Libby James, Marsh, Melendy, Michael, Mitchell, E.; Mitchell, J.; Nadeau, O'Gara, Oliver, Paradis, P.; Pineau, Pinette, Plourde, Rand, Richardson, Ricker, Rotondi, Rowe, Rydell, Simonds, Skoglund, Stevens, K.; Sullivan, Swazey, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Treat, Walker, Wentworth, Winn, Young, The Speaker.

ABSENT - Bailey, H.; Bailey, R.; Campbell, Carr, Cathcart, Coffman, Constantine, Dutremble, L.; Heino, Kilkelly, Larrivee, Martin, H.; Michaud, Morrison, Pfeiffer, Pouliot, Ruhlin, Saint Onge, Saxl, Vigue.

Yes, 59; No, 72; Absent, 20; Paired, 0; Excused, 0.

59 having voted in the affirmative and 72 in the negative with 20 being absent, the motion did not prevail.

On motion of Representative Faircloth of Bangor, the House voted to Insist and ask for a Committee of Conference.

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

Joint Order - Relative to Joint Rule 13-B - Joint Select Committee on Rules (H.P. 1114)

- In House, Read and Passed on May 21, 1993.

- In Senate, Read and Indefinitely Postponed in non-concurrence.

TABLED - May 21, 1993 by Representative GOULD of Greenville.

PENDING - Motion of same Representative to Adhere.

On motion of Representative Gould of Greenville, retabled pending the motion of the same Representative that the House Adhere and specially assigned for Tuesday, May 25, 1993.

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

An Act to Ensure Compliance with Existing Energy Efficiency Building Standards (MANDATE) (S.P. 241) (L.D. 734) (H. "A" H-323 to C. "A" S-102)

TABLED - May 21, 1993 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: The other day when this vote came up, numbers of you voted against it I believe because of the mandate language. You were as surprised as I was to see that mandate sticking on that bill when we saw it. On our committee in Utilities, we are mindful of mandate language because we deal with so many of the water districts in your communities so we have a wonderful analyst that keeps us on the straight and narrow with those issues. This did not get the attention of the analyst or other members of the committee and when it came out of committee, it was a unanimous "Ought to Pass" Report.

What the bill is designed to do is provide

language in statute that would encourage compliance with existing energy standards that are already in our statutes. We did not create the standards, we simply found language that would encourage compliance for new construction of commercial and institutional buildings.

The origin of this bill was not mine or the other sponsors but rather people that came before us in the Energy Commission who made the argument that many of you are very fond of making about the level playing field for people in business.

The people who brought this issue before us were engineers and architects who said in a bidding process where they have complied with existing energy standards and their competitors did not, they often lost a bid. So, they, in their testimony before the Energy Commission asked us to find language that would encourage compliance with those standards that are already on the books. Those standards are called ASHRAE standards that are part of federal guidelines for energy, heating, cooling, refrigeration and so on.

If you look at the amended language which was worked very carefully by the committee to get that unanimous report, it has to do with new construction only of businesses that are either commercial or institutional. The only place I can find where the mandate applies, and I spent a number of hours trying to get an answer to this question, is that we agreed with the request of the Utilities to allow them to assess a reasonable fee for taking the action that is required in the bill. I can't figure out a way to get around that, so I can't argue the mandate language, all I can argue is that it is a solid piece of legislation requested before the Energy Commission and unanimously passed by the Utilities Committee. It is a pro-business bill as I look at it and one that I hope you will be able to support.

Representative Gwadosky of Fairfield requested a roll call vote.

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

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

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Kutasi.

Representative KUTASI: Mr. Speaker, Men and Women of the House: I feel on this bill there are a lot of unanswered questions. I would like to pose a question through the Chair.

What is the definition of a commercial building? Does it apply to a logger having a logging building, does it apply to a garage mechanic or something of that nature?

The SPEAKER: Representative Kutasi of Bridgton has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: It is defined in statute but, absent a copy of that book, I can't tell you what that is. It is defined, I think, by square footage.

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

Representative CASHMAN: Mr. Speaker, Men and

Women of the House: Again, I would like to echo some of the comments made earlier by Representative Kontos. We worked at great lengths in the Utilities Committee to make sure that this would not be a mandate, it would not be a burden to the municipalities.

What this bill does is it tries to enforce the building standards that are in statute right now. Right now, the Department of Economic and Community Development are responsible for making sure that commercial and institutional building standards are adhered to, but, to date, there is no mechanism in place to do that.

What this bill does is it requires an electric utility company to require from the builder or the owner of a new commercial or institutional building to sign a form saying they are making a good faith effort to comply with the building standards that are in state statute now. Then, when they sign that, they can have their primary power turned on and they send that form to the DECD, it does not involve the municipalities at all.

It is still a mystery to me why this is a mandate and it basically puts enforcement in place for a statute that we have already voted through in a previous legislature.

The SPEAKER: A roll call has been ordered. The pending question before the House is passage to be enacted. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House is necessary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 127

YEA - Adams, Ahearne, Aikman, Aliberti, Barth, Beam, Bowers, Brennan, Bruno, Cameron, Carleton, Carroll, Cashman, Chase, Chonko, Clark, Clement, Cloutier, Clukey, Coles, Cote, Daggett, Donnelly, Dore, Driscoll, Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gwadosky, Hatch, Heeschen, Hichborn, Hoglund, Holt, Jacques, Johnson, Joseph, Kerr, Ketterer, Kontos, Lemke, Lemont, Marsh, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Nadeau, Nash, O'Gara, Oliver, Ott, Paradis, P.; Pineau, Pinette, Richardson, Ricker, Rotondi, Rowe, Rydell, Simonds, Skoglund, Stevens, K.; Sullivan, Swazey, Tardy, Taylor, Townsend, E.; Townsend, G.; Townsend, L.; Treat, True, Tufts, Walker, Wentworth, Young, The Speaker.

NAY - Anderson, Ault, Bennett, Birney, Caron, Cross, Dexter, DiPietro, Farnum, Farren, Foss, Gray, Greenlaw, Hillock, Hussey, Jalbert, Joy, Kneeland, Kutasi, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Murphy, Nickerson, Norton, Pendexter, Pendleton, Plourde, Plowman, Poulin, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Strout, Thompson, Tracy, Whitcomb, Zirnkilton.

ABSENT - Bailey, H.; Bailey, R.; Campbell, Carr, Cathcart, Coffman, Constantine, Dutremble, L.; Hale, Heino, Kilkelly, Larrivee, Martin, H.; Morrison, Pfeiffer, Pouliot, Rand, Ruhlin, Saint Onge, Saxl, Vigue, Winn.

Yes, 82; No, 47; Absent, 22; Paired, 0; Excused, 0.

82 having voted in affirmative and 47 in the negative with 22 being absent, the bill failed of enactment. Sent up for concurrence.

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

**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-396) on Bill "An Act to Further Discourage the Smoking of Cigarettes by Minors" (H.P. 454) (L.D. 580)

Signed:

Senators: CAREY of Kennebec  
HANDY of Androscoggin  
HALL of Piscataquis

Representatives: DAGGETT of Augusta  
LEMKE of Westbrook  
MICHAEL of Auburn  
BOWERS of Washington  
STEVENS of Sabattus  
BENNETT of Norway  
NASH of Camden  
ROBICHAUD of Caribou

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

Signed:

Representatives: GAMACHE of Lewiston  
TRUE of Fryeburg

Reports were read.

On motion of Representative Daggett of Augusta, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-396) was read by the Clerk and adopted and the bill assigned for second reading Tuesday, May 25, 1993.

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

**REPORTS OF COMMITTEES**

**Ought to Pass as Amended**

Representative BOWERS from the Committee on Legal Affairs on Bill "An Act Concerning the Operation of Aircraft under the Influence of Intoxicating Liquor or Drugs" (H.P. 1084) (L.D. 1450) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-400)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-400) was read by the Clerk and adopted and the bill assigned for second reading Tuesday, May 25, 1993.

**Ought to Pass as Amended**

Representative ROBICHAUD from the Committee on Legal Affairs on Bill "An Act Authorizing Presidential Preference Primary Elections in the State" (H.P. 114) (L.D. 156) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-401)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-401) was read by the Clerk and adopted and the bill assigned for second reading Tuesday, May 25, 1993.

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

**CONSENT CALENDAR**

**First Day**

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

(H.P. 951) (L.D. 1280) Bill "An Act to Amend the Laws Related to Concealed Weapon Permits" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-402)

(H.P. 877) (L.D. 1191) Resolve, Creating the Maine State 175th Anniversary Commemoration Commission Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-404)

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

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

**CONSENT CALENDAR**

**Second Day**

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

(H.P. 309) (L.D. 397) Bill "An Act to Ensure Equitable Treatment of Manufactured Home Owners" (C. "A" H-397)

(H.P. 553) (L.D. 749) Bill "An Act to Provide for Affordable Cooperative Housing in the State" (C. "A" H-398)

(H.P. 945) (L.D. 1274) Bill "An Act to Maintain Confidentiality of Medical Information Reported to the Department of Human Services"

No objections having been noted at the end of the Second Legislative Day, the House Papers were Passed to be Engrossed or Passed to be Engrossed as Amended

and sent up for concurrence.

**PASSED TO BE ENGROSSED**

**As Amended**

Bill "An Act to Require that the Clerk-of-the-works on State Construction Projects be Employed by the Owner, not the Architect" (H.P. 219) (L.D. 287) (C. "A" H-382)

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

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

**SENATE PAPERS**

**Ought to Pass as Amended**

Report of the Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-176) on Bill "An Act to Require Postgraduate Residency Training for Podiatric Medical Licensure and to Permit Temporary Residency Licensure" (S.P. 234) (L.D. 727)

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

Report was read and accepted, the Bill read once. Committee Amendment "A" (S-176) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, May 25, 1993.

**Ought to Pass as Amended**

Report of the Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-178) on Bill "An Act Regarding Reciprocity of Licensing Barbers and Cosmetologists" (S.P. 401) (L.D. 1232)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-178) and Senate Amendment "A" (S-187).

Report was read and accepted, the bill read once. Committee Amendment "A" (S-178) was read by the Clerk and adopted.

Senate Amendment "A" (S-187) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, May 25, 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. 184) (L.D. 620) Bill "An Act to Clarify What Constitutes an Emergency Regarding Disconnection of Utility Service for the Emergency Assistance Program" Committee on Human Resources reporting "Ought to Pass"

(S.P. 363) (L.D. 1120) Bill "An Act to Amend the Law Regarding Rate Setting at Residential Treatment Centers" Committee on Human Resources reporting "Ought to Pass"

(S.P. 190) (L.D. 626) Bill "An Act to Amend the Long-term Care Ombudsman Program" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-179)

(S.P. 226) (L.D. 697) Bill "An Act to Remove Home Health Care Agencies from the Maine Certificate of Need Act of 1978 Requirement for Initial Licensure" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-180)

(S.P. 295) (L.D. 881) Bill "An Act Regarding Lobbying" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-183)

(S.P. 411) (L.D. 1287) Bill "An Act to Provide for the Combination of Cary Medical Center and The Aroostook Medical Center in Central Aroostook County" (EMERGENCY) Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-181)

Under suspension of the rules, Second Day Consent Calendar notification was given, the Senate Papers were Passed to be Engrossed or Passed to be engrossed as amended in concurrence.

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

**PETITIONS, BILLS AND RESOLVES  
REQUIRING REFERENCE**

The following 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:

**Judiciary**

Resolve, Relating to Access for People with Disabilities (H.P. 1140) (L.D. 1540) (Presented by Representative FARNSWORTH of Hallowell)

Ordered Printed.  
Sent up for Concurrence.

**Taxation**

Resolve, to Study the Tax Assessment Practices of

Municipalities Regarding Mobile Homes (H.P. 1139) (L.D. 1539) (Presented by Representative MITCHELL of Freeport)

Ordered Printed.  
Sent up for Concurrence.

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

**SENATE PAPERS**

**Non-Concurrent Matter**

Bill "An Act Concerning Limits on Security Deposits" (H.P. 898) (L.D. 1213) on which the majority "Ought Not to Pass" Report of the Committee on Legal Affairs was read and accepted in the House on May 18, 1993.

Came from the Senate with the minority "Ought to Pass" Report of the Committee on Legal Affairs read and accepted and the Bill passed to be engrossed in non-concurrence.

Representative Daggett of Augusta moved that the House Adhere.

Representative Stevens of Orono moved that the House recede and concur.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I hope you will join me in opposing the motion to recede and concur so we can go on and accept the motion to adhere. There was a strong vote and vigorous debate on this issue earlier here in the House and I hope that you will continue to support your previous position.

Mr. Speaker, I request a Division.

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

Representative STEVENS: Mr. Speaker, Men and Women of the House: I hope that you can support this, this is a good bill. As you know, it prevents rent from being charged six months in advance and it entitles people to withhold rent for repair and deduct as well as for taking care of negligent landlords. This bill is not a geographically specific bill, it applies to the whole state. It is a problem throughout the state of people who charge rent in advance. It is expensive and it is hard for people to come up with thousands and thousands of dollars to pay for their rent all in one lump sum or two lump sum or three annual lump sums.

The bill is a good bill and I hope that you can support it.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Stevens of Orono that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Tracy of Rome requested a roll call vote.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote

yes; those opposed will vote no.

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

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

**ROLL CALL NO. 128**

YEA - Adams, Ahearne, Aliberti, Beam, Bowers, Brennan, Carroll, Chase, Clark, Clement, Cloutier, Coles, Cote, Dore, Faircloth, Farnsworth, Fitzpatrick, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Heeschen, Hillock, Hoggund, Holt, Jacques, Johnson, Kneeland, Lemke, Libby James, Melendy, Michael, Mitchell, E.; Mitchell, J.; Nadeau, Norton, Oliver, Pineau, Pinette, Rand, Richardson, Rotondi, Rowe, Rydell, Simonds, Stevens, K.; Sullivan, Swazey, Townsend, E.; Tracy, Treat, Walker, Wentworth, Winn.

NAY - Aikman, Anderson, Ault, Barth, Bennett, Birney, Bruno, Cameron, Carleton, Caron, Cashman, Chonko, Clukey, Cross, Daggett, Dexter, DiPietro, Donnelly, Driscoll, Erwin, Farnum, Farren, Foss, Gamache, Greenlaw, Hatch, Hichborn, Hussey, Jalbert, Joseph, Joy, Kerr, Ketterer, Kontos, Kutasi, Lemont, Libby Jack, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Murphy, Nash, Nickerson, O'Gara, Ott, Paradis, P.; Pendexter, Pendleton, Plourde, Plowman, Poulin, Reed, G.; Reed, W.; Ricker, Robichaud, Simoneau, Skoglund, Small, Spear, Stevens, A.; Strout, Tardy, Taylor, Thompson, Townsend, G.; Townsend, L.; True, Tufts, Whitcomb, Young, Zirkilton.

ABSENT - Bailey, H.; Bailey, R.; Campbell, Carr, Cathcart, Coffman, Constantine, Dutremble, L.; Heino, Kilkelly, Larrivee, Martin, H.; Michaud, Morrison, Pfeiffer, Pouliot, Ruhlin, Saint Onge, Saxl, Vigue, The Speaker.

Yes, 55; No, 75; Absent, 21; Paired, 0; Excused, 0.

55 having voted in the affirmative and 75 in the negative with 21 being absent, the motion to recede and concur did not prevail.

On motion of Representative Stevens of Orono, the House voted to Insist and ask for a Committee of Conference.

**Non-Concurrent Matter**

Bill "An Act to Extend the Maine Dairy Farm Stabilization Act" (H.P. 591) (L.D. 806) which was passed to be engrossed as amended by Committee Amendment "A" (H-303) in the House on May 18, 1993.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-303) as amended by Senate Amendment "A" (S-188) thereto in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

Bill "An Act to Undedicate Certain Revenues of the Department of Environmental Protection" (EMERGENCY) (H.P. 1020) (L.D. 1366) on which Report "A" "Ought Not to Pass" of the Committee on Appropriations and Financial Affairs was read and accepted in the House on May 20, 1993.

Came from the Senate with Report "C" "Ought to Pass" as amended by Committee Amendment "B" (H-374) of the Committee on Appropriations and Financial Affairs read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (H-374) in non-concurrence.

On motion of Representative Bennett of Norway, the House voted to recede and concur.

**Non-Concurrent Matter**

An Act to Exempt Employees of the Public Utilities Commission from Furlough and Shutdown Days (EMERGENCY) (S.P. 119) (L.D. 357) (C. "A" S-70) which failed of passage to be enacted in the House on May 11, 1993.

Came from the Senate with the Bill and accompanying papers recommitted to the Committee on Utilities in non-concurrence.

Representative Reed of Falmouth moved that the House Adhere.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I hope when you vote tonight, you vote to recede and concur because we want to refer this back to committee. So, when you vote, I hope you vote with me this evening.

Representative Gray of Sedgwick moved that the House recede and concur.

Representative Aikman of Poland requested a roll call vote.

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

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

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Reed.

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, this measure as you may recall, failed enactment here on May 11th. Since then, it has languished on the Unassigned Table in the other body — something that strikes me as somewhat amusing since it was originally brought forward as an emergency measure.

A brief reprise on this bill is that it asks us, it asks this body to violate for one small agency, the language in the budget preamble which supposedly applies to every bureau, department and agency of government. That language prohibits the use of accrued salary savings to fund on-going personal services. In my view, the motion to recommit is an attempt to put on life support a measure which this

House has already issued a strong "do not resuscitate" order. I hope we will not recede and concur.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Pineau.

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

To Representative Clark of Millinocket, as Chair of Utilities, do you want this bill back in committee?

The SPEAKER: Representative Pineau of Jay has posed a question through the Chair to Representative Clark of Millinocket who may respond if he so desires.

The Chair recognizes that Representative.

Representative CLARK: Mr. Speaker, Men and Women of the House: Yes.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Gray of Sedgwick that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 129

YEA - Adams, Ahearne, Aliberti, Beam, Bowers, Brennan, Caron, Carroll, Cashman, Chase, Chonko, Clark, Clement, Cloutier, Coles, Cote, Daggett, DiPietro, Dore, Driscoll, Erwin, Faircloth, Farnsworth, Fitzpatrick, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hoglund, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Kerr, Ketterer, Kontos, Lemke, Lipman, Melendy, Michael, Mitchell, E.; Mitchell, J.; Nadeau, Norton, O'Gara, Oliver, Paradise, P.; Pineau, Plourde, Poulin, Rand, Richardson, Ricker, Rotondi, Rowe, Rydell, Simonds, Skoglund, Stevens, K.; Sullivan, Swazey, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Young, The Speaker.

NAY - Aikman, Anderson, Ault, Barth, Bennett, Birney, Bruno, Cameron, Carleton, Clukey, Cross, Dexter, Dohnelly, Farnum, Farren, Foss, Gamache, Greenlaw, Hillock, Joy, Kneeland, Kutasi, Lemont, Libby Jack, Libby James, Lindahl, Look, Lord, MacBride, Marsh, Marshall, Murphy, Nash, Nickerson, Ott, Pendexter, Pendleton, Pinette, Plowman, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Strout, Taylor, Thompson, True, Tufts, Whitcomb, Winn, Zirkilton.

ABSENT - Bailey, H.; Bailey, R.; Campbell, Carr, Cathcart, Coffman, Constantine, Dutremble, L.; Heino, Kilkelly, Larrivee, Martin, H.; Michaud, Morrison, Pfeiffer, Pouliot, Ruhlin, Saint Onge, Saxl, Vigue.

Yes, 77; No, 54; Absent, 20; Paired, 0; Excused, 0.

77 having voted in the affirmative and 54 in the negative with 20 being absent, the motion to recede and concur did prevail.

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

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act to Amend the Laws Governing the Hancock County Budget Advisory Committee (S.P. 449) (L.D. 1416) (C. "A" S-146)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and 3 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act Relating to Publication of Legal Notices (S.P. 468) (L.D. 1460)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act to Clarify Criteria for Allowing Unlicensed Municipal Solid Waste Landfills to Accept Waste After December 31, 1992 (H.P. 191) (L.D. 254) (C. "A" H-217)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act Concerning the Payment of Assessed Property Taxes (H.P. 322) (L.D. 410) (C. "A" H-312)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act to Establish a Surplus Energy Program (S.P. 111) (L.D. 312) (C. "A" S-157)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**ENACTOR**

**Emergency Measure**

**(Failed of Enactment)**

An Act to Extend the Repeal Date of the Laws Governing Biosynthetic Bovine Somatotropin (S.P. 198) (L.D. 634) (S. "A" S-123 to C. "A" S-105)

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

Representative Heeschen of Wilton requested a roll call vote.

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

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

The SPEAKER: The pending question before the House is passage to be enacted. This being an emergency measure, a two-thirds vote of all the members elected to the House is necessary. Those in favor will vote yes; those opposed will vote no.

**ROLL CALL NO. 130**

YEA - Adams, Ahearne, Anderson, Ault, Barth, Beam, Bennett, Bowers, Brennan, Bruno, Cameron, Carroll, Cashman, Chase, Clark, Clement, Cloutier, Clukey, Coles, Cross, Daggett, Donnelly, Dore, Driscoll, Faircloth, Farnsworth, Farnum, Farren, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Gwadosky, Hatch, Heeschen, Hichborn, Hogle, Holt, Johnson, Joy, Kerr, Kneeland, Kontos, Lemke, Lemont, Libby James, Lindahl, Look, Lord, MacBride, Marsh, Marshall, Melendy, Michael, Mitchell, E.; Mitchell, J.; Murphy, Nadeau, Nash, Nickerson, Norton, O'Gara, Oliver, Ott, Pendexter, Pendleton, Pineau, Pinette, Plowman, Rand, Richardson, Ricker, Robichaud, Rotondi, Rowe, Rydell, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, K.; Sullivan, Taylor, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, True, Tufts, Walker, Wentworth, Winn, Young.

NAY - Aikman, Aliberti, Birney, Carleton, Caron, Chonko, Cote, Dexter, DiPietro, Erwin, Foss, Greenlaw, Hale, Hillock, Hussey, Jacques, Jalbert, Joseph, Ketterer, Kutasi, Libby Jack, Lipman, Paradis, P.; Plourde, Poulin, Reed, G.; Reed, W.; Stevens, A.; Strout, Swazey, Tardy, Thompson, Whitcomb, Zirkilton, The Speaker.

ABSENT - Bailey, H.; Bailey, R.; Campbell, Carr, Cathcart, Coffman, Constantine, Dutremble, L.; Heino, Kilkeley, Larrivee, Martin, H.; Michaud, Morrison, Pfeiffer, Pouliot, Ruhlin, Saint Onge, Saxl, Vigue.



Yes, 96; No, 35; Absent, 20; Paired, 0; Excused, 0.

96 having voted in the affirmative and 35 in the negative with 20 being absent, L.D. 634 failed of enactment. Sent up for concurrence.

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**PASSED TO BE ENACTED**

**Emergency Measure**

An Act to Make Corrections to the Salary Reductions Authorized in Public Law 1991, Chapter 780, Part III (S.P. 203) (L.D. 639) (C. "A" S-162)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 103 voted in favor of the same and 9 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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**PASSED TO BE ENACTED**

**Emergency Measure**

An Act to Establish Uniform Procedures and Standards for Administrative Consent Agreements (H.P. 179) (L.D. 231) (C. "A" H-334)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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**PASSED TO BE ENACTED**

**Emergency Measure**

An Act to Amend the Maine State Retirement System Laws Related to the Participating Local Districts Consolidated Plan (H.P. 755) (L.D. 1022) (C. "A" H-327)

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

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**PASSED TO BE ENACTED**

**Emergency Measure**

An Act to Establish Municipal Cost Components for Unorganized Territory Services to be Rendered in Fiscal Year 1993-94 (H.P. 859) (L.D. 1168) (C. "A"

H-310)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of the same and 3 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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**PASSED TO BE ENACTED**

**Emergency Mandate**

An Act Relating to the Portland Harbor Commission and Portland Harbor (S.P. 315) (L.D. 948) (S. "B" S-152 to C. "A" S-144)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 105 voted in favor of same and 5 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

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**PASSED TO BE ENACTED**

**Mandate**

An Act to Provide for Water Rights to the Town of New Gloucester (H.P. 62) (L.D. 92) (C. "A" H-88 and H. "A" H-339)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 111 voted in favor of same and 6 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

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**PASSED TO BE ENACTED**

**Mandate**

An Act to Amend the Waldoboro Utility District Charter (H.P. 745) (L.D. 1012) (S. "A" S-164 to C. "A" H-225)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 106 voted in favor of same and 7 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

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**PASSED TO BE ENACTED**

An Act to Ensure Uniformity in Gasoline Octane Levels (S.P. 151) (L.D. 483) (C. "A" S-145)

An Act to Exempt Certain Greenhouse and Nursery Owners from Licensing Fees (H.P. 166) (L.D. 218) (H. "A" H-238 and H. "B" H-361 to C. "A" H-209)

An Act to Permit Children 5 Years of Age to Enter Grade One (H.P. 184) (L.D. 236) (C. "A" H-221)

An Act to Amend the Laws Regarding Protection from Harassment to Include the Protection of Rental Property (H.P. 236) (L.D. 304) (C. "A" H-291)

An Act to Better Preserve and Protect Endangered and Threatened Wildlife in Maine (H.P. 512) (L.D. 670) (C. "A" H-308)

An Act to Require Additional Landlord Disclosures (H.P. 563) (L.D. 760) (C. "A" H-290)

An Act to Establish a Guideline for Maximum Assessment Ratios (H.P. 734) (L.D. 992) (C. "A" H-313)

An Act to Expand the Membership of the Interagency Task Force on Homelessness and Housing Opportunities (H.P. 739) (L.D. 997) (C. "A" H-295)

An Act to Amend the Laws Governing Adverse Possession of Real Estate (H.P. 790) (L.D. 1076) (C. "A" H-314)

An Act Amending the Liquor License Laws (H.P. 792) (L.D. 1078) (C. "A" H-306)

An Act to Increase the Fee for Taking Fingerprints and Palm Prints of Citizens upon Request (H.P. 793) (L.D. 1079) (C. "A" H-315)

An Act Repealing Advisory Boards on Agriculture Matters (H.P. 799) (L.D. 1085) (C. "A" H-302)

An Act Repealing Advisory Boards on Energy and Natural Resource Matters (H.P. 804) (L.D. 1090) (C. "A" H-300)

An Act Repealing Advisory Boards on Corrections Matters (H.P. 850) (L.D. 1155) (C. "A" H-293)

An Act to Require Employee Leasing Companies to Post Security Bonds or Deposit Securities (H.P. 1012) (L.D. 1358) (H. "A" H-325)

An Act Regarding the Holding of Juveniles in the Penobscot County Jail (H.P. 1026) (L.D. 1378) (C. "A" H-294)

An Act Regarding Registration of Nursing Assistants (H.P. 1028) (L.D. 1380)

An Act to Create a Franchise Law for Power Equipment, Machinery and Appliances (S.P. 127) (L.D. 364) (C. "A" S-155)

An Act to Determine Eligibility of Child for Benefits (S.P. 245) (L.D. 764) (C. "A" S-161)

An Act Concerning Continuous Emission Monitoring Devices (S.P. 368) (L.D. 1125) (C. "A" S-154)

An Act to Provide for Special Liquor Licenses (S.P. 442) (L.D. 1372) (S. "A" S-166)

An Act to Amend the Shoreland Zoning Law (H.P. 168) (L.D. 220) (C. "A" H-335)

An Act Concerning Termination of Tenancies at Will (H.P. 468) (L.D. 605) (C. "A" H-316)

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.

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**PASSED TO BE ENGROSSED**

An Act to Amend the Mutual Holding Company Laws (H.P. 477) (L.D. 614) (S. "A" S-175 to C. "A" H-305)

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

On motion of Representative Pineau of Jay, the House reconsidered its action whereby L.D. 614 was passed to be engrossed.

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

On further motion of the same Representative, the House reconsidered its action whereby Senate Amendment "A" (S-175) to Committee Amendment "A" (H-305) was adopted.

On further motion of the same Representative, Senate Amendment "A" (S-175) to Committee Amendment "A" (H-305) was indefinitely postponed.

The same Representative offered House Amendment "A" (H-406) to Committee Amendment "A" (H-305) and moved its adoption.

House Amendment "A" (H-406) to Committee Amendment "A" (H-305) was read by the Clerk and adopted.

Committee Amendment "A" (H-305) as amended by House Amendment "A" (H-406) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-305) as amended by House Amendment "A" (H-406) thereto in non-concurrence and sent up for concurrence.

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**PASSED TO BE ENACTED**

An Act to Improve Access of Injured Workers to Medical Care (H.P. 644) (L.D. 875) (C. "A" H-331)

An Act to Authorize the Commissioner of Inland Fisheries and Wildlife to Alter the Deer Seasons (H.P. 940) (L.D. 1269) (C. "A" H-320)

An Act to Amend the Laws Concerning Massage Therapists (H.P. 982) (L.D. 1313) (C. "A" H-333)

An Act to Bring the State Tipping Wage up to the Federal Tipping Wage (H.P. 993) (L.D. 1335) (C. "A" H-332)

An Act Regarding Suspension of Maine Guide Licenses (H.P. 1001) (L.D. 1347) (C. "A" H-321)

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.

**FINALLY PASSED**

Resolve, to Grant an Easement from the Maine Technical College System to Darling's, Incorporated to Construct and Use an Access Road on the Campus of Eastern Maine Technical College (S.P. 435) (L.D. 1367) (Governor's Bill)

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

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

**REPORTS OF COMMITTEES**

**Ought to Pass as Amended**

Representative POULIN from the Committee on Energy and Natural Resources on Bill "An Act Concerning Duplicate Fees Required by the Department of Environmental Protection" (H.P. 1023) (L.D. 1375) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-411)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-411) was read by the Clerk and adopted and the bill assigned for second reading Tuesday, May 25, 1993.

**Ought to Pass as Amended**

Representative JACQUES from the Committee on Energy and Natural Resources on Bill "An Act to Amend the Natural Resources Protection Laws" (H.P. 936) (L.D. 1259) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-412)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-412) was read by the Clerk and adopted and the bill assigned for second reading Tuesday, May 25, 1993.

**CONSENT CALENDAR**

**First Day**

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

(H.P. 1049) (L.D. 1401) Resolve, to Create the Healthy Start Task Force (EMERGENCY) Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-409)

(H.P. 1031) (L.D. 1383) Bill "An Act to Establish

Multidisciplinary Reviews of Child Abuse and Neglect Fatalities and Serious Injuries and to Provide Access to Confidential Information for the Multidisciplinary Reviews" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-410)

(H.P. 1013) (L.D. 1359) Bill "An Act to Amend the Laws Concerning Medicare Supplement Insurance" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-413)

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

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

**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-399) on Bill "An Act to Authorize Maine Financial Institutions and Credit Unions to Sell Annuities" (H.P. 778) (L.D. 1051)

Signed:

Senators: McCORMICK of Kennebec  
CAREY of Kennebec

Representatives: PINEAU of Jay  
TRACY of Rome  
ERWIN of Rumford  
CARLETON of Wells  
CAMPBELL of Holden

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

Signed:

Senator: KIEFFER of Aroostook

Representatives: HALE of Sanford  
RAND of Portland  
KUTASI of Bridgton  
JOSEPH of Waterville  
TOWNSEND of Canaan

Reports were read.

Representative Pineau of Jay moved that the House accept the Majority "Ought to Pass" Report.

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

Representative RAND: Mr. Speaker, Men and Women of the House: I hope that you will reject the motion on the floor to accept the Majority "Ought to Pass" Report so that we can go on to accept the Minority "Ought Not to Pass" Report.

The title of this bill would lead us to believe that banks would be able to sell annuities to bank

customers and that is somewhat of a misnomer. What banks will actually be able to do is hire their own in-house insurance agent who will have to be licensed by the Bureau of Insurance and who will also have to undergo continuing education in order to sell this insurance product. The proof of the pudding, I guess, is in the eating because this product cannot be produced by the banks, it must be purchased from an insurance company. There are many reasons for this, one is that annuities do require underwriting and banks are not allowed to underwrite.

We have been told that the proponents of this legislation are telling us that consumers should have a right to choose. I would admit that by having in-house insurance agents offer this product to bank customers, there will be a measure of convenience there for the customer. But, we have absolutely no evidence that has come before us to tell us there is a lack of access or a lack of competition out there as far as annuity products are concerned. The convenience that a customer may get when they go into a bank and their IRA has matured and they have reached the age where they have got to do something with that money to protect its tax exempt status, they can then, according to this legislation, deal with the in-house insurance agent.

This convenience, when we look at the data from other states where banks are allowed to perform this service for the public, the usual commission is around 6 percent for the most common annuity products. In Maine, an independent insurance agent gets between 2 1/2 and 4 percent commission.

It is my belief that competition will actually decrease because agents will be put at a great disadvantage. The bank employee who is licensed by the Bureau of Insurance will have access to the financial picture of their customers and naturally the independent insurance agents won't. The independent agents can never hope to compete with the banks when it comes to dollars for advertising. So, it is my firm belief that competition in this arena will decrease and the banks will have a serious edge.

If you will notice, people from the insurance industry are not out in the halls like the bank people are because the insurance industry doesn't really care which agents bring them the business. They know that annuities must be purchased from them, the money will not stay in Maine banks as some people — not that the proponents have said this, I want to make that clear — but many people have thought that, if the banks sell the annuities, then that money will stay right here in Maine banks, that is not the case at all. The product has to be bought from an insurance company.

This is not a partisan issue, it is certainly not a life and death issue except to the 600 or so independent agents who will never be able to compete with the banks and some of them have 30, 40, 50 and more percent of their income depend on the sale of annuities.

I ask you to reject the motion that is on the floor so that we can go on to accept the Minority "Ought Not to Pass" Report.

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

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to accept the Majority "Ought to Pass" as Amended Report.

I will give you a little brief history on why I am supporting this bill this time for the banks to

sell annuities.

For the Representatives who were here in the 114th and 115th, I had adamantly opposed the banks getting into the annuity business. But since then, I have changed my mind, I have come around full circle to support this and I signed it out in committee. I think it is time that the consumer has the right to make the choice and that the State Legislature stays out of the consumer's right to choose.

I would urge you to accept the Majority "Ought to Pass" Report.

Mr. Speaker, I request the yeas and nays when the vote is taken.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Kutasi.

Representative KUTASI: Mr. Speaker, Men and Women of the House: As I can see by the empty seats in this House that everybody is sick and tired of hearing about annuities, but let me give you a little bit more information about them.

First of all, to give the right for banks to sell annuities there, is an element of coercion that can happen there. Annuities are a product for elderly people that have IRA's or CD's in the bank that are tax deferred and they get to a point where they want to roll them over into an annuity. The bank with the account, with the money, with the financial picture in hand has the opportunity to make a list and say, hey, we have a product here to sell you, why don't you buy an annuity? This takes out the insurance agent who is out there roaming the streets trying to figure out, well, do I have a customer that I can sell an annuity to? He doesn't have the financial picture, he has a product to sell whether someone wants to invest in that product or not. That is a fair way of selling.

The other item that I want you to consider is the regulation nightmare in this. Here we have two highly regulated agencies, the Bureau of Banking, the Bureau of Insurance and then we stick an insurance agent inside a bank. Who is the one that is going to regulate this person, the Bureau of Insurance or the Bureau of Banking? Is the person dealing with banking procedures or is he dealing with insurance procedures? I feel it is going to be a regulation nightmare. Nobody knows, nobody set the rules, nobody knows whose jurisdiction this particular person comes under.

The other area — people are saying that the federal banks, the federally chartered institutions have already the right to sell annuities. All we want is parity, that is all we want. We want to do the same thing the federally chartered banks can do.

There are specific rules for federally chartered banks, they can only sell annuities in areas with populations of 5,000 people or less. They can only sell annuities if they made a clear case that no one else in the area is selling annuities. So, they have to work to sell annuities.

The other thing, if a nationally chartered bank sold annuities, they would probably subcontract the local agent already in your town to sell that particular product if they so desire. But, if that agent is already there, how can they prove that there isn't a market for somebody to sell annuities? So, for the federally chartered banks to sell annuities in the State of Maine, it would be fairly difficult, the rules are very prohibitive.

I had one more point and, if I can remember it, I will say it. I can't remember it right now but,

hopefully, someone will get up and speak and I will remember it. Thank you for listening.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: I will try to be brief on a complicated issue.

When my good friend, the Representative from Bridgton, Representative Kutasi, gets up and starts talking about insurance agents roaming the streets, we should get nervous.

There will be no coercion. The safeguards we have put in this bill show no coercion. To answer his argument on that, what we have done is built-in safeguards in this bill whereby people who are comfortable doing business with a financial institution will continue to do that. Those who feel comfortable dealing with their agent at home, they will continue to do that.

To answer his question as to who regulates, the Bureau of Insurance will regulate as the person has to have a license. The actions inside the bank will be under the Bureau of Banking which are now gone. That is all decided in the bill, that is not up for confusion, read the amendment and it is right there.

Yes, nationally chartered banks are going to be selling annuities. We have six nationally chartered banks in this state, three of them will be selling annuities before the new year begins. What that is, that puts our small Maine banks at an unfair advantage again. We have people from out-of-state who we can't regulate by our dual banking system laws having the advantage over our Maine banks and over our Maine Credit Unions. That is your choice on that issue, I think it is a pretty clear one.

There was a study done in North Carolina when Virginia was looking at whether or not to allow this to happen. They found that this didn't put insurance agents out of a job, it actually increased the number of annuities that that state did sell. There is a market there and, just like in any market, people sit back, look at what the market is and try to make the best product at a competitive wage. I find it interesting to have me up here standing and barking about free enterprise but here I am again.

It comes down to a very easy question, do you want parity as the Representative from Bridgton said or do you want unfair advantage?

In the 26 states that now have financial institutions selling this to the consumer, this product, you didn't see any insurance agent, there has been no loss of agents, no lack of competition in there because of other than the economy. Selling of the annuities by a financial institution didn't affect that at all.

It is a serious business and it is a real serious business for a lot of our small banks and for our small credit unions. What this bill does is, if you are small and you can't put somebody on board just to do this, it allows you to contract with an insurance agent to come in and do that for you. I think that is a pretty smart way of doing business as Maine usually typically figures out a way to get it done. If you are big enough, you have to put somebody on board who can only sell annuities, they can't sell other insurance products.

With what is going on with the selling of mortgages, credit cards, car loans — look at who is involved in that. You have to think on what the competition, the banks and our credit unions have

now. That is really what is going on out there.

This bill has the safeguards in it. I, like the Representative from Rome, Representative Tracy, was against this bill the first term I was here. Last year I was borderline, this year having hands on and being able to work it through committee, I can tell you I feel really comfortable with this. If you are afraid of free enterprise, don't vote for this. If you are for competition and to give the consumer the best product at the best price, vote yea.

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

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I am not in the banking business nor am I in the insurance business and I must admit that most times they confuse me. However, I am familiar with small town banks because I am a small town person and I prefer small towns.

The question has been asked of me a number of times in the hall, "Do you know your local banker like you do your insurance agency?" Yes sir, I know him better, I don't give my money to people I don't know. I don't have that much of it and when I spread it around, I have to make sure that it is in the hands of people that I know I can trust. That is not to say that I don't trust my insurance's agent but nonetheless I know my banker just as well.

I would point out that a number of years ago, I offered this in testimony in the last legislature when I argued for this bill, the City of Eastport a number of years ago was in financial trouble. We were close to closing the town down and letting the state take it over. Who came to our aid? A small town Maine bank, nobody else would touch us, they took a chance on us, they were there when we needed them and we know them well.

It has also been argued that the banks shouldn't be selling insurance products and insurance companies shouldn't be selling bank products — well, I wish that was an even playing field too because the insurance business has already crossed over those lines in many instances. Credit cards are but one example. Insurance agencies running around the street — you know, that's kind of a funny picture but nonetheless, I honestly am not convinced, I have talked to a number of people, I am not convinced that this is going to put our local insurance agencies at a disadvantage, this is free enterprise. If they have a better product, they will sell more of it. If they can sell it cheaper or they can entice the customers in, this might make them work a little harder but that's okay, that doesn't bother me.

I am not going to go on and on because as I stated when I first arose here, I am not an expert in the banking or insurance industry but, to me, this is nothing more than helping to create an even playing field. I think that our small town banks, I won't speak for the big banks, but the small town banks down in my area especially, they cannot afford to be at any disadvantage. Those folks are there, not only to help towns that get in trouble, but they are there for the young couples who want to buy their first home, they are there for the people who live in that community. They are in the truest sense of the phrase, community banks, they know their small towns, they know the people they do business with and they are trusted and I feel that this is a step in the right direction.

I urge you to go with the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Men and Women of the House: I, too, voted against this measure in the 115th Legislature. This time around I have changed my mind about this legislation. One of the major reasons I changed my mind about this legislation is a report by the Comptroller of the currency, I think it was just within this past month, which reaffirmed that national banks can sell annuities.

In my home community, there is a national bank which is right down the road from one of our state-chartered banks, the Ocean National Bank and the Kennebunk Savings Bank in a neighboring community — those banks, the head office of those banks, sit right next to each other. It seems to me that if National Banks are going to be allowed to sell these annuity products that we ought to allow our state-chartered banks to do so as well and that is the reason why I am supporting this legislation.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Kutasi.

Representative KUTASI: Mr. Speaker, Ladies and Gentlemen of the House: I just remembered Representative Townsend said how it gives the consumers an opportunity for a product — ladies and gentlemen, the insurance agents and the banks are going to be selling the same product. There is no different product that the bank has and the insurance doesn't have, there is only a number of large insurance companies that underwrite annuities, Prudential, Hancock or whatever these large underwriters are so what is going to happen is the banks' assets are going to go to these large insurance companies. If the bank fails, we want our consumers in the bank. There are some small banks in northern Maine that do not want to sell annuities because they don't want to dwindle their assets, they don't want to spend their assets to a large insurance company. They want to keep their assets at home, come up with an investment product that they have and invest it in the communities, not invest it in some concrete jungle in New York City somewhere or wherever these large insurance companies invest.

My argument is that if banks wants to sell something and be in competition with annuities, then they ought to come up with a product that is in competition with annuities and not sell an annuity. An annuity is an annuity is annuity, there is no difference. Have them come up with their own product and that's what real competition is all about, that is what the free marketplace is all about.

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

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I have supported allowing banks and credit unions to sell annuities for one primary reason, more consumer choice. That is what this bill is about, giving Maine consumers of annuities the choice to buy their investments from insurance agents, stockbrokers, firms or banks and credit unions.

Many Maine consumers want this additional choice because they have developed a strong, financial relationship with their local banks. As with any bill before this legislature, I look at what the proposal will do for voters in my district and I know that in my district, like most districts in the state, that of my constituents who utilize financial

planning services and who consider retirement products such as annuities, some prefer doing business with insurance agents, some prefer doing business with stockbrokers but many prefer doing business with their bank.

Representative Rand and Representative Kutasi have said that banks will have a financial picture of the customer because they do have their money in that bank, while insurance companies offer investment services to the customer and they too can have a financial picture of the customer.

To respond to something that Representative Kutasi said about finding their product, well, they already sell individual retirement accounts, IRA's, and so do the insurance agents so what's wrong with that?

Maine customers, consumers and my constituents should have the right to choose where they obtain financial services such as annuities. This bill allows consumers to have that choice and to do business where they feel the most comfortable in doing business, that is most convenient or that gives them the best deal. Consumers have this ability to choose in more than one-half of the state.

I urge you to support L.D. 1051 and give Maine consumers the right to choose where they buy their annuities.

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

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

I would like to know if anybody can answer this question — how many banks own insurance companies and how many insurance companies have stocks in banks?

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

The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I am pleased that I reminded Representative Kutasi of a point to make and he returned the favor.

There are a number of insurance agencies in my area, that though the agent is "local yokel", if you will, he represents large insurance companies and I must say that I think some of that money might go out of state too.

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 Jay, Representative Pineau, that the House accept the Majority "Ought to Pass" Report.

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

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

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

Donnelly.

Representative DONNELLY: Mr. Speaker, pursuant to House Rule 19 and Joint Rule 10, I request to be excused from voting.

The SPEAKER: The Representative from Presque Isle, Representative Donnelly, requests permission to be excused from voting, that permission is granted.

At the same time, the Speaker will excuse himself from voting because of a potential conflict of interest on this legislation.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Driscoll.

Representative DRISCOLL: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Greene, Representative St. Onge. If she were present and voting, she would be voting nay; I would be voting yes.

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

Representative NORTON: Mr. Speaker, pursuant to Joint Rule 10 and House Rule 19, I request permission to abstain from voting on this issue.

The SPEAKER: The Chair will grant the request.

The pending question before the House is the motion of the Representative from Jay, Representative Pineau, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 131

YEA - Ahearne, Anderson, Beam, Bennett, Birney, Bowers, Brennan, Carleton, Carroll, Chase, Clark, Clement, Cloutier, Coles, Cross, Dexter, Dore, Erwin, Faircloth, Farnsworth, Farren, Fitzpatrick, Gamache, Gray, Greenlaw, Gwadosky, Hatch, Hichborn, Hoglund, Holt, Hussey, Jalbert, Johnson, Kerr, Ketterer, Kneeland, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Marsh, Marshall, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Nadeau, Nash, Nickerson, O'Gara, Oliver, Ott, Pendleton, Pineau, Pinette, Ricker, Rotondi, Rowe, Rydell, Simoneau, Small, Spear, Sullivan, Swazey, Tardy, Townsend, E.; Townsend, G.; Tracy, Treat, Tufts, Winn, Zirkilton.

NAY - Adams, Aikman, Barth, Bruno, Cameron, Caron, Cashman, Chonko, Clukey, Cote, Daggett, DiPietro, Farnum, Foss, Gean, Gould, R. A.; Hale, Heeschen, Hillock, Jacques, Joseph, Joy, Kontos, Kutasi, Lord, MacBride, Michael, Murphy, Pendexter, Plourde, Plowman, Poulin, Rand, Reed, G.; Reed, W.; Richardson, Robichaud, Simonds, Skoglund, Stevens, A.; Stevens, K.; Strout, Taylor, Thompson, True, Walker, Wentworth, Whitcomb, Young.

ABSENT - Aliberti, Ault, Bailey, H.; Bailey, R.; Campbell, Carr, Cathcart, Coffman, Constantine, Dutremble, L.; Heino, Kilkelly, Larrivee, Martin, H.; Morrison, Pfeiffer, Pouliot, Ruhlin, Saxl, Vigue.

PAIRED - Paradis, (Yea)/ Townsend, (Nay); Driscoll (Yea)/ St. Onge (Nay).

EXCUSED - Donnelly, Norton, The Speaker.

Yes, 75; No, 49; Absent, 20; Paired, 4; Excused, 3.

75 having voted in the affirmative and 49 in the negative with 20 being absent, 4 having paired and 3 excused, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-399) was read by the Clerk and adopted and the bill assigned for second reading Tuesday, May 25, 1993.

The Chair laid before the House the following matter: An Act to Clarify Responsibility for Workers' Compensation Coverage for Town Forest Fire Wardens and Laborers Hired for Forest Fire-fighting Activities (H.P. 976) (L.D. 1307) (C. "A" H-285) which was tabled earlier in the day and later today assigned pending passage to be enacted.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: An Act to Amend Maine's Unclaimed Property Act (S.P. 185) (L.D. 621) (C. "A" S-132) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Hoglund of Portland, under suspension of the rules, the House reconsidered its action whereby L.D. 621 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-132) was adopted.

The same Representative offered House Amendment "A" (H-405) to Committee Amendment "A" (S-132) and moved its adoption.

House Amendment "A" (H-405) to Committee Amendment "A" (S-132) was read by the Clerk and adopted.

Committee Amendment "A" (S-132) as amended by House Amendment "A" (H-405) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (S-132) as amended by House Amendment "A" (H-405) thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: An Act Regarding Vessels Stored at Marinas (H.P. 481) (L.D. 618) (C. "A" H-286) which was tabled earlier in the day and later today assigned pending passage to be enacted.

Subsequently, L.D. 618 was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: HOUSE DIVIDED REPORT - Majority (11) "Ought to Pass" as amended by Committee Amendment "A" (H-367) - Minority (1) "Ought Not to Pass" - Committee on Business Legislation on Bill "An Act to Centralize Licensing for Retail Businesses" (H.P. 399) (L.D. 512) which was tabled earlier in the day and later today assigned pending the motion of Representative Hoglund that the House accept the Majority "Ought to Pass" Report.

On motion of Representative Gwadosky of

Fairfield, retabled pending the motion of Representative Hogle of Portland that the House accept the Majority "Ought to Pass" Report and specially assigned for Tuesday, May 25, 1993.

The Chair laid before the House the following matter: Majority Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-388) on Bill "An Act to Eliminate the Prescription Requirement for Hypodermic Syringes" (H.P. 587) (L.D. 791) and Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill which was tabled earlier in the day and later today assigned pending the motion of Representative Treat of Gardiner that the House accept the Majority "Ought to Pass" Report.

Representative Donnelly of Presque Isle requested a Division.

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

A vote of the House was taken.

94 having voted in the affirmative and 13 in the negative, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-388) was read by the Clerk and adopted and the bill assigned for second reading Tuesday, May 25, 1993.

The Chair laid before the House the following matter: Majority Report of the Committee on Banking and Insurance reporting "Ought Not to Pass" on Resolve, Requiring an Audit of the Functions and Records of Workers' Compensation Insurers (H.P. 781) (L.D. 1054) and Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-403) on same Bill which was tabled earlier in the day and later today assigned pending the motion of Representative Pineau of Jay that the House accept the Majority "Ought Not to Pass" Report.

Subsequently, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The Chair laid before the House the following matter: An Act Related to Mortgage Companies (S.P. 177) (L.D. 591) (C. "A" S-121) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Pineau of Jay, under suspension of the rules, the House reconsidered its action whereby L.D. 591 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-121) was adopted.

The same Representative offered House Amendment "A" (H-417) to Committee Amendment "A" (S-121) and moved its adoption.

House Amendment "A" (H-417) to Committee H-906

Amendment "A" (S-121) was read by the Clerk and adopted.

Committee Amendment "A" (S-121) as amended by House Amendment "A" (H-417) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (S-121) as amended by House Amendment "A" (H-417) thereto in non-concurrence and sent up for concurrence.

(Off Record Remarks)

On motion of Representative Hale of Sanford, Adjourned at 7:40 p.m. until Tuesday, May 25, 1993, at nine o'clock in the morning.