

# 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  
57th Legislative Day  
Tuesday, May 25, 1993

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

Prayer by Paul B. Gates, East Vassalboro Friends Meeting.

The Journal of Monday, May 24, 1993, was read and approved.

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SENATE PAPERS

Bill "An Act to Establish Curtailable Load Retention Service" (S.P. 512) (L.D. 1538)

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

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

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Non-Concurrent Matter

Bill "An Act to Continue the 2-cent Gas Tax Increase" (EMERGENCY) (H.P. 1129) (L.D. 1530) which was read twice under suspension of the rules without reference to a committee and passed to be engrossed in the House on May 24, 1993.

Came from the Senate referred to the Committee on **Taxation** in non-concurrence.

On motion of Representative Paradis of Augusta, tabled pending further consideration and later today assigned.

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Non-Concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Create a Unicameral Legislature (H.P. 768) (L.D. 1035) on which the Minority "**Ought to Pass**" as amended Report of the Committee on **State and Local Government** was read and accepted and the RESOLUTION passed to be engrossed as amended by Committee Amendment "A" (H-277) in the House on May 24, 1993.

Came from the Senate with the Majority "**Ought Not to Pass**" Report of the Committee on **State and Local Government** read and accepted in non-concurrence.

Representative Lemke of Westbrook moved that the House Insist and ask for a Committee of Conference.

Representative Donnelly of Presque Isle moved that the House recede and concur.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: I ask you to vote against this motion pending on the floor. I ask that as a common courtesy so that this can go back to the other body

where it can be debated in the other body fully as it was not debated at all yesterday.

I ask your support on this.

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

A vote of the House was taken.

25 having voted in the affirmative and 52 in the negative, the motion did not prevail.

Subsequently, on motion of Representative Lemke of Westbrook, the House voted to Insist and ask for a Committee of Conference. Sent up for concurrence.

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COMMUNICATIONS

The following Communication: (S.P. 510)

116TH MAINE LEGISLATURE

May 21, 1993

Senator Dale McCormick  
Rep. Edward L. Pineau  
Chairpersons  
Joint Standing Committee on Banking and Insurance  
116th Legislature  
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Brian K. Atchinson of Cumberland for reappointment as the Superintendent of the Bureau of Insurance.

Pursuant to Title 24A, MRSA Section 201, this nomination will require review by the Joint Standing Committee on Banking and Insurance and confirmation by the Senate.

Sincerely,

S/Dennis L. Dutremble  
President of the Senate

S/John L. Martin  
Speaker of the House

Came from the Senate, Read and Referred to the Committee on **Banking and Insurance**.

Was Read and Referred to the Committee on **Banking and Insurance** in concurrence.

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The following Communication: (S.P. 511)

116TH MAINE LEGISLATURE

May 21, 1993

Senator Rochelle Pingree  
Rep. Rita B. Melendy  
Chairpersons  
Joint Standing Committee on Housing and Economic

Development  
116th Legislature  
Augusta, Maine 04333

Dear Chairs:

Please be advised that, pursuant to Title 10, MRSA 972, Governor John R. McKernan, Jr. has nominated Timothy P. Agnew of Yarmouth for reappointment as Chief Executive Officer of the Finance Authority of Maine.

Also, pursuant to Title 10, MRSA Section 965, the Governor has nominated Jayne C. Giles of Winthrop and Richard E. Dyke of Windham for reappointments to the Finance Authority of Maine.

These nominations will require review by the Joint Standing Committee on Housing and Economic Development and confirmation by the Senate.

Sincerely,

S/Dennis L. Dutremble  
President of the Senate

S/John L. Martin  
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Housing and Economic Development.

Was Read and Referred to the Committee on Housing and Economic Development in concurrence.

**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on Human Resources reporting "Ought Not to Pass" on Bill "An Act to Promote Financial Responsibility and Family Planning" (H.P. 1115) (L.D. 1510) (Governor's Bill)

Signed:

Senator: PARADIS of Aroostook

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

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-414) on same Bill.

Signed:

Senator: HARRIMAN of Cumberland

Representative: PENDEXTER of Scarborough

Reports were read.

Representative Treat of Gardiner moved that the House accept the Majority "Ought Not to Pass" Report.

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

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will not accept the Majority "Ought Not to Pass" Report so that you can go on to support the Minority Report.

I request a Division.

This bill is a Governor's Bill and I am the sponsor of this bill. As we have proceeded through our budget talks and negotiations this year, we have considered many programs that we must or think we should eliminate and many programs that we want to keep. We really do have to establish priorities.

This bill would request a waiver to make a change in the policy that now promotes encouraging women on AFDC to have additional children. As our law now stands, if a woman on AFDC has an additional child, she really is rewarded with an additional amount of money for that child. This bill would discontinue that practice. We would ask for a federal waiver to allow us not to continue to give that additional amount of money for an additional child. However, any additional child would remain eligible for Medicaid benefits so the child certainly would be taken care of.

At the public hearing before the Appropriations Committee this year, a woman testified that she had had seven children on AFDC. I have a constituent who has five children she has had on AFDC and it is the taxpayer who really pays the bill for these additional children.

The bill has a number of exceptions that would help make the enforcement of it much easier. Number one, supposing your brother or sister or someone had a problem and could no longer to keep their child, if you took that child, then that child would not be considered an additional child.

Mothers who are pregnant at the time they sign up for AFDC are exempted. Then there is a good cause exemption that would take care of any problems that might occur. Some people say it would be difficult to enforce. However, I think with your "good cause exception", it would not be anymore difficult to enforce than any of the other laws that we have on the books. This "good cause exception" would take care of any problems that developed or any accidents that occurred. So, I think that the bill certainly is workable.

Every bill that we pass certainly does have difficulty with enforcement, for example, the seat belt bill for children. People are always telling me about seeing cars with children in them and the children are unbelted. So, we do try to enforce our laws but it is not possible to enforce them 100 percent. I do think the good cause clause however would take care of that to some extent.

Currently, while an AFDC recipient has another child, the benefit for a household of three is increased by \$112 per month and the food stamp allotment is increased by \$45 a month for a total of \$157 per month. To a person who is desperate for money, that perhaps would look like a lot in a short term. However, I feel that this only creates an additional problem for that mother who is trying to

get off welfare but does have the burden of still another child or perhaps another and another and another child.

Furthermore, I feel that we have family planning facilities available throughout the state, birth control is readily available and I think it is the responsibility of all people, really, to take advantage of that if they really do not want to have another child.

I do want you to remember too that that additional child does carry the Medicaid benefit so that child would not be left alone without the support that it most certainly needs.

We all know that we have budget restraints and I feel that this is one area which we could readily cut. I think this bill is a pro-job bill. I think it is important to get people off AFDC and working. I think without the burden of additional children, that an AFDC mother would be much more able to take advantage of the job training courses that are given and could really lead a better and more productive life.

I hope you will defeat the Majority "Ought Not to Pass" Report so you can go on and pass this bill. I think this is one step in making some priorities that we really need to make as we go forward with the budget process. I do not think giving an additional reward to AFDC mothers for additional children is really the way we should be continuing to establish our priorities.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: For the past several weekends, I have been building myself a stone wall in my garden. It is an activity I would recommend to all of you as a great therapy after a week spent in Augusta. I find the physical exertion rewarding and I find it extremely satisfying to be able to produce tangible and visible results at the end of the week.

There is, however, one problem and that is the action of getting the rocks. What is involved is I go out into the woods by my home and I see a rock and I say to myself, "Now, there is a good one. It is the right size, it has good shape, it has interesting characteristics." I bend and try to work it free from the soil. It is then that I scream — I jump backward about two feet because I uncover something dark, slimy, and repulsive. I am telling you this to draw an analogy. This bill may appear attractive on the surface but I would urge you to approach it with a great deal of caution because if you look at it carefully, you will find something really very ugly underneath.

I would like to draw your attention to Subsection 1, which is labeled "other children." It says, "This limitation does not apply in the following circumstances: a child who meets the eligibility requirements and is not the biological child of a family member receiving Aid to Families with Dependent Children benefits establishes residence with a family receiving benefits." In other words, you may adopt a child if you are on AFDC, you may take in your sister's child or your brother's child or a foster child, what you may not do is beget a child by having sexual relations.

Men and women of the House, if you would like to outlaw poor people from having sex, I suggest that that is a bill we could come out with. I have a few titles in mind but it is my personal feeling that

poor people have as much right to sexual relations as you do.

Those who support this bill say it sends a message. They will acknowledge sooner or later that it can not be enforced, that it does discriminate, that it has bizarre exemptions within it, but they say it sends a message. I think that is a very strange message.

There is another one I would like to point out. Only two people spoke in favor of this bill when it was presented to us. One was a representative of the Governor's Department, I won't use his name, I don't imagine you know him, he spends most of his time monitoring us in Room 434. But, one member of the committee asked him, "Do you think that abortions are likely to increase as a result of this bill?" He said at first, "I don't know." But, when pressed, when that committee member said, "Do you think that poor women who find themselves pregnant who are denied the money with which to support that child, who cannot gain benefits without undergoing an excruciating, humiliating examination as to how they happened to become pregnant, might seek to have an abortion?" He said, "Yes, I think that is what I would do under those circumstances."

Men and women, I am pro-choice, but I think that it would be unconscionable for this state to create the circumstances where an abortion is a preferable option.

Finally, I just have to point out one other irony. This bill came forward as part of the Governor's budget, the same budget, which I must point out, cuts funding to family planning clinics. What kind of a message is that? That is why I support the Majority "Ought Not to Pass" Report and I certainly hope you will join me.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: The Representative from Portland, Representative Townsend, has given you a good overview of some of the concerns with this bill and I would like to speak to a couple of others.

This is a very poor public policy. It is a public policy that really is in search of a problem and I would like to get into that a little bit because it is something that has some kind of surface appeal. We all know when we go door to door every two years that numerous people in our communities say, we have to do something about those pregnant people who are on AFDC. They are just in it for the money, go do something. That is what this bill is designed to address.

The fact is that there isn't a problem out there that merits this type of response. The average size of a family, persons on AFDC, is 2.8. That is the exact same size, if not smaller, than the average size family on persons who are not on the AFDC program. In fact, the average family size of AFDC residents has declined over the last 20 years from 3.3 in 1975 to 2.8 as I said in 1992. So, just from the outset, it isn't a policy that actually addresses a problem that we have.

I know everyone here is thinking well, gee, aren't there all these teenage mom's that just get pregnant, you know, all these teenagers? The fact is that we do have a high teenage pregnancy rate in this state but this bill does absolutely nothing to address teenage pregnancy because it doesn't talk about that first baby that those teenagers have. It

doesn't address that. And, as the Representative from Portland pointed out, it cuts family planning by 43 percent in our budget, the same proposal that proposed this item, cuts family planning by 43 percent. There is one state in this country that has adopted a proposal like this, that is the State of New Jersey and when they did it, they increased their family planning budget by 50 percent, a 50 percent increase. I might add that the New Jersey program has not gone into effect because they delayed implementation. The minute it does go into effect, according to the research we have done, talking with New Jersey officials, there is a lawsuit waiting in the wings to tie it up because there are some very significant concerns about a person's privacy rights which I am going to get into.

The real issue, if we want to address teenage pregnancy, is the focus on education, to focus on family planning efforts, to focus on the teen parent program that was also slated to be cut in the budget, that our committee recommended be funded, those are the ways that we address those problems, focusing on self-esteem. Sure, there is a problem but I would like to point out that even in the area of teenage pregnancy, the rate in this state has declined in the last ten years.

I know people out there — when you go door-to-door, think otherwise but the facts are as follows: In the last ten years, the teenage pregnancy rate has dropped from 69.6 per one thousand to 65.3. In the country, Maine and Vermont have the fewest number of AFDC families with four or more members, the fewest numbers, and yet we would be the one state in New England to adopt this terrible policy.

Secondly, as has already been mentioned by Representative Townsend, this is an enforcement nightmare. Those of you who voted against the seat belt legislation, who did so because you are concerned about personal liberties, that is nothing compared to this bill, nothing. We are talking here about invading the bedroom of Maine citizens and finding out what they do there and when they do it. That is what this bill is about.

The only way for this bill to be constitutional is that you have to have a "good cause exception" because the fact is that contraception fails. In fact, it fails a lot of the time. According to the family planning association, 26 to 30 women out of every 100 are likely to become pregnant within a year. If they use spermicide, 15 to 20 of those 100 women will become pregnant. If they use a diaphragm, it is estimated that half of all women using this method will become pregnant over a 5 year period. So, the only way that is fair to have this bill is to have a hearing before you impose a penalty in which you inquire what kind of contraception were you using and did you tell your partner to put on that condom? What if they said no? What if the partner is a batterer and you felt you had no choice? Those are the kinds of things that are considered good cause and those are the kinds of things that we would have to inquire into in a hearing, a humiliating hearing, that would invade what is private to all of us. Why should someone who is poor be treated differently from everybody else? It is absolutely demeaning and it is a totally inappropriate public policy for this state to follow.

Finally, the whole point of this bill besides the sort of social engineering goal is to save money.

The fiscal note says it will save \$146,000 in the first year. That is not much money for what this bill is and I dare say that the administrative costs of enforcement will probably end up outweighing this in addition to the court costs that we will have to engage in. It is currently illegal, we have to spend money to put together a federal waiver in order to get it. It is just not a good policy.

We debated this in our committee at length and, even though this bill showed up on your desk a week ago, we had a hearing on it last week. It was part of the Governor's original budget. We had a subcommittee on income maintenance that looked into this in detail, had all kinds of testimony before our committee, and it was very clear to that subcommittee that this was not something that made much sense. We took that matter to the entire committee, we had more meetings of the entire committee, more people came before our committee and the support for it was very limited. The opposition was fairly broad, I would say. The committee voted by a very large majority against this proposal as part of our budget deliberations. We then had another hearing last week which went on at length and we got as educated as we possibly could on this issue and, again, the vote was the same, only two persons in the committee supported it. This is not public policy that this state should endorse and I strongly urge you to vote for the "Ought Not to Pass" Report.

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

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: We all need to take responsibilities in these times of tough choices. Those who look to government for support need to take the same responsibility that those of us who support these entitlement programs do. No taxpaying family has an automatic increase in income similar by having an additional child, instead parents must balance the important rewards of having children against the financial demands that a child brings. Working families must stretch limited financial resources to meet the pressure created by having more children. Similarly, welfare mothers should not have an automatic and unlimited entitlement to extra income simply by having additional children. If a mother on AFDC decides to bear additional children, she must accommodate the cost of raising the child within her existing budget. This makes the welfare mother financially accountable for the decision to have additional children.

I have 18 years of experience working for the Portland Health Department. I don't appreciate being called insensitive or whatever adjectives have been used in this debate this morning. I wouldn't be in the profession I am if I didn't care about helping people. I worked 18 years helping poor people and I worked with a lot of AFDC families and a lot of welfare families. I have to say to you, although I am told this is only a small percentage of people who are on AFDC for a lifetime, I certainly dealt with a lot of families who had been on Medicaid and AFDC all their life. People on welfare have access to birth control. People on welfare are very well educated. This is not a matter of sex in bedrooms and all this stuff, what it is all about is about having responsible sex. People on welfare are very well educated and they have the resources available to them. But, I did see young women, 16, 17 year old

women who purposely went off the birth control pills so that they could get the checks and get into the cycle. If I say to you this stops one or two or three people from getting on the welfare rolls, then I say it is worth doing. It is not being insensitive, it is just sending a message that in these tough times, it is not a free ride anymore. If you are going to have children, then you have to be responsible for the children you bear and bring into this world. I don't think that there should be a financial reward for that activity.

Mr. Speaker, when the vote is taken, I request the yeas and nays.

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

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

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Fitzpatrick.

Representative FITZPATRICK: Mr. Speaker, Men and Women of the House: I rise to speak on L.D. 1510 as part of the majority on the Human Resources Committee and also as part of the subcommittee that has been reviewing welfare reform. Very shortly in this House, you will be reviewing the package which has bipartisan support which will reform Maine's welfare-to-work system.

What I can tell you is that L.D. 1510 is not welfare reform. This bill ignores the fact that AFDC families have the same number of children as other families. It ignores that birth control, as you have heard, is not 100 percent effective. It ignores that this bill, and perhaps most importantly, would be impossible to administer. There are no savings here. Bills like this are impossible to administer, they are mean-spirited, they are gimmicks and they are not welfare reform.

I wonder how we will determine that contraceptive failure has occurred? Think about this for a second, how will the State of Maine determine whether contraceptive failure has occurred with an individual woman on AFDC? It is simply not a bill that we will be able to administer. In fact, I believe it will encourage abortions. This bill in the end will harm children, will bring virtually no savings to the budget and, again, is a gimmick, it should not be part of any viable welfare reform package.

I ask you to accept the Majority "Ought Not to Pass" Report.

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

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I feel compelled to speak this morning because of some of the emotional hyperbole in this debate from the opponents.

The comment was made earlier by an opponent that this is an attempt to outlaw poor people from having sex. I totally disagree with that statement. This is a bill that encourages responsible sex and responsible family planning. It is very simple, do the working people in your district get a raise when they have another child? I don't think so.

The comment was made that there are bizarre exemptions. I don't think it is bizarre to exempt

someone who takes a child, who may be homeless or may have other problems, into one's home. I don't think it is bizarre to have a "good cause exception," and I don't think it is bizarre to exempt a mother who is pregnant when she goes on welfare. I think those are very realistic, practical exemptions.

The comment was made that there are no savings. A former speaker mentioned the first year savings was over one-third of a million dollars in this savings and many of you come to us on Appropriations and ask for money for education, for General Assistance, parks and many other things. I think one-third of a million dollars is a lot of money in savings.

I want to stress these children will continue to be covered by Medicaid, their health insurance will continue to be covered.

Also, a prior speaker mentioned that in New Jersey, family planning went up by 50 percent but then she said the law hadn't gone into effect. I don't think you can have it both ways on that.

I urge you to reject the "Ought Not to Pass" Report so that we move on and pass this legislation.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Members of the House: It has been suggested that somehow this bill is going to teach recipients of AFDC to be more responsible, that they will consider the fact when they are planning their family that they might not get additional benefits if they have another child. The fact is some people still will be irresponsible and they will have additional children and they will be denied the benefit of \$157.00 a month as has been described. The person who will be harmed by that is the child, not the mother, the child will go without food, the child will go without the proper clothing, without proper housing. So, to teach the parent some responsibility, we are going to be harming children in this. They will get their medical care but Medicaid doesn't pay for food until you are in the hospital. Medicaid doesn't pay for clothing until you are in the hospital. What this bill will do is harm children.

I urge you to support the "Ought Not to Pass" Report.

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

Representative FOSS: Mr. Speaker, Men and Women of the House: Just to correct another misstatement on this bill — that child still will qualify for food stamps and, as I mentioned earlier and as other speakers have mentioned, will still be covered by Medicaid which is health insurance.

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.

In the L.D. in the Statement of Fact, it says, "The mother of a newborn child is pregnant with a child at the time she applies for benefits in a broad "good cause exception." Could anybody explain to me what the "good cause exception" is?

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 Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: The "good cause exception" deals with the fact that if contraception fails with someone who

tries not to have children and who uses contraception but the contraception fails because it often does will have to prove that it was the contraception that failed, not that they didn't use it.

Also, women are raped, women are battered, they are in abusive relationships, so the "good cause exception" is designed to address those concerns that someone who is forced to have sex against their will and then becomes pregnant should not be denied the additional money that is needed to support that child.

The SPEAKER: The Chair recognizes the Representative from Alfred, Representative Gean.

Representative GEAN: Mr. Speaker, Men and Women of the House: The problem with this bill is that we really ought not be making laws, passing laws, based on myth. The myth holds that low-income people who are receiving any kind of welfare assistance do in fact have as many children as possible so they can live even higher on the hog. As you heard earlier in this state over the last years, the number of children that AFDC families have has decreased dramatically. So much for the myth.

This thing keeps coming back. We had it two years ago. Members of our committee and those people who dealt with it dubbed it, "kill the next kid" bill. The reason being it does withhold that assistance from the mother when that next child is born. The child can be on Medicaid, there is no doubt about it, they just can't afford to eat.

The next part of this has to do with asking Commissioner Sheehan in front of the Appropriations Committee a couple of months ago when this issue came up if she could cite or if anybody in her department could cite any credible evidence that showed that withholding assistance from a very poor family through this mechanism would teach anybody to be more responsible? The good commissioner couldn't respond that she knew of a single study or anything to base that opinion on.

I encourage you to support the Majority "Ought Not to Pass" Report.

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

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: Just to answer a few of the questions, this bill certainly is not based on myth, it is based on reality. As has been said several times today, the child does continue to get Medicaid and it continues to get food. As I read earlier, for a household of three, the additional food allotment is increased by \$45 a month. So, that amount of food would certainly feed that child.

Furthermore, there was a question of what the good cause was in the bill. I think if you look at your bill on page one, it tells you that the Department will develop criteria to take care of any of the enforcement problems which have been envisioned. That is what happens with most of the bills that we have.

I think this bill is a bill, as has been said several times, and I will say it again, I think it promotes responsibility. I think people who are married and have children, if they decide to have another child or whether they decide not to, they have to take the responsibility for that. I think everyone should be taking that responsibility.

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

Representative STROUT: Mr. Speaker, Men and

Women of the House: I think today you want to be awfully careful how you vote on this. You know, I deal with this on a daily basis with the AFDC recipients. I have got to tell you that you may think that there is going to be a savings here when in fact, in my opinion, there may be a savings at the state level but I think you are just shifting it to the locals. You may feel that why I am up here I have a special interest in watching out for the municipalities and that is true. When you talk about that \$157.00 that you are going to take away from that AFDC recipient, what that person is going to do, as I see it, is going to come in and is still going to have that basic need through the General Assistance process and there is no question in my mind that with this bill all you are going to do is shift it from the state to the local.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Treat of Gardiner 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. 132

YEA - Adams, Ahearne, Aliberti, Beam, Bowers, Brennan, Bruno, Caron, Carroll, Cashman, Chase, Chonko, Clark, Clement, Cloutier, Coles, Constantine, Cote, Daggett, Driscoll, Erwin, Faircloth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hoglund, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Kerr, Kontos, Lemke, Melendy, Mitchell, E.; Mitchell, J.; Nadeau, O'Gara, Oliver, Paradis, P.; Pendleton, Pfeiffer, Pineau, Pinette, Plourde, Pouliot, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Simoneau, Spear, Stevens, K.; Strout, Sullivan, Swazey, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Vigue, Walker, Wentworth, Young.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Cameron, Carleton, Carr, Clukey, Cross, Dexter, Donnelly, Dutremble, L.; Farnum, Farren, Foss, Greenlaw, Hillock, Joy, Kneeland, Kutasi, Lemont, Libby James, Lipman, Look, Lord, MacBride, Marsh, Marshall, Michael, Murphy, Nash, Nickerson, Norton, Ott, Pendexter, Reed, G.; Reed, W.; Robichaud, Skoglund, Small, Stevens, A.; Taylor, Thompson, True, Tufts, Whitcomb, Winn, Zirnilton.

ABSENT - Campbell, Cathcart, Coffman, DiPietro, Dore, Farnsworth, Heino, Ketterer, Kilkelly, Larrivee, Libby Jack, Lindahl, Martin, H.; Michaud, Morrison, Plowman, Poulin, The Speaker.

Yes, 81; No, 52; Absent, 18; Paired, 0; Excused, 0.

81 having voted in the affirmative and 52 in the negative with 18 being absent, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

#### Divided Report

Majority Report of the Committee on Human Resources reporting "Ought Not to Pass" on Bill "An Act to Amend State Law Regarding HIV Testing" (H.P. 744) (L.D. 1002)



Signed:

Senators: BALDACCI of Penobscot  
PARADIS of Aroostook

Representatives: GEAN of Alfred  
TREAT of Gardiner  
BRENNAN of Portland  
JOHNSON of South Portland  
TOWNSEND of Portland  
BEAM of Lewiston

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-415) on same Bill.

Signed:

Senator: HARRIMAN of Cumberland

Representatives: BRUNO of Raymond  
PENDLETON of Scarborough  
PENDEXTER of Scarborough  
FITZPATRICK of Durham

Reports were Read.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.  
Representative TREAT: Mr. Speaker, Men and Women of the House: I move that the House accept the Majority "Ought Not to Pass" Report.

This bill in its original form was a wholesale repeal and change of the laws that we have regarding testing for HIV. The bill before you as it has been amended for the Minority simply pulls out one piece of the bill which deals with medical records. I would like to address that.

Right now, if someone gets tested for HIV, that information goes into their medical records. Before that particular piece of information can be released to someone, for example an insurance company or another doctor, that individual must have already signed a written release saying that they give permission for that piece of information to be sent to the other party.

What the Minority Report would do would be to take away that requirement. So, for example, let's say you had applied for some insurance and, as always happens you get in the mail a form which says, do you agree to have your medical records sent to us? Right now, if you had already signed a form that said that you did not want your HIV status or the fact that you had taken a test, even if it was negative, to show up on the medical records that were sent, that information would not be sent. Under this amendment, however, it would be sent. You would not have that specific ability to say you can send all of my records but not the information on HIV.

This is an important provision. As you know right now, we really are dealing with a great deal of discrimination and fear when it comes to HIV status. The fact is that there is a lot of fear out there and someone who has AIDS or is HIV positive or even someone who has said that they have taken the test, possibly, can be viewed with suspicion or possibly discriminated against. That is why these regulations and rules have been developed around testing for HIV.

It is extremely important that people get tested

for HIV. If they don't and they have it, then they are likely to transmit it to other people. It is a public health measure to get people to get tested. However, when people are afraid that somehow information about them might get out to other people that might be used in some way against them, they won't get tested. We have developed over the years, starting in I believe 1987, very detailed rules about HIV testing which are different from other medical testing provisions. They are different for a reason.

I would like to just quote from a health center that sent us a letter, it is the Mabel Wadsworth Women's Health Center. Just talking specifically about this provision, they opposed it, the change that is envisioned in the Minority Report. They say, "Overall, the changes suggested by this bill strike me as attempts to lessen privacy confidentiality and control by the clients or patient in making health care choices. I have heard some health care providers argue that HIV/AIDS should not be treated differently than any other contagious disease. In an ideal world, I would agree. However, too many people have experienced discrimination, isolation and stigmatization because of HIV/AIDS.

Until laws truly protect everyone and attitudes change, special protections around HIV antibody testing must be maintained. Maine already has one of the same approaches to HIV antibody testing in the nation, I strongly urge you to vote against the bill." Her concerns were with this provision as well as the other provisions of the bill, "I would say that it is an improved bill from what was before the committee originally but it does not rise to any level that you should support."

The reasons to support this provision fall into the realm of convenience for the doctor and we had testimony from doctors saying that basically it is not really an inconvenience the way the law is written now. They have a form and when someone gets tested they take the form to them and say, here is the form dealing with release of this information, this is how it could be released, I just want to let you know, sign on the dotted line if it is okay with you, otherwise not. That's the way it works.

This is a good provision and it should stay in the law. It is a public health provision because you want everyone who could have AIDS to get tested and if we take away this protection of privacy, then people who should get tested, won't. That is going to hurt you and me because those people are not going to be protecting others when they have sexual relations with them and that is just the way it is going to be. They will also be transmitting AIDS through blood transfusions and every other way.

I urge you to vote for the Majority "Ought Not to Pass" Report. I ask for a Division.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I urge you to support the Minority "Ought to Pass" on this bill. This is something that I put a lot of thought in before I submitted it. It is a very sensitive issue and I do feel that caution is required in proceeding on this particular disease.

A number of points though that I do want to make today. The present law is and has been on the books since 1987. The level of testing in the State of Maine is one of the lowest in the nation, in the five percent level. A lot of people feel that that is

because, along with the testing is mandatory, mandatory, counseling. I think everybody wants people to be counseled on anything like this but mandatory, I feel, goes a bit far. That is kind of beside the point anyway.

Of all the people that are involved in AIDS and oversee it or work within the field, I have a great deal of respect for them, they are wonderful people and they are very self-sacrificing and very caring individuals.

However, I feel, and the biggest reason why I put this bill in, my opinion is that the priority in this state is to protect the privacy of those that have HIV rather than get a handle on the disease. Now, protecting the priority of these folks is of utmost importance, there is no question about it. As long as we have hateful individuals in our society and vindictive individuals, then these folks need to be protected. However, I don't feel that they need to be protected to the point where they put the rest of us in danger. This is a communicable disease, it is running rampant — all the education, all the experts say, it hasn't slowed down one bit. It is a disease, by the way, that we all are involved in. This isn't just one particular society disease, this hits us all and this concerns us all. There is no room for bigotry and hate in this, I agree, but you solve those problems in other ways.

I feel that the law on the books today helps confuse the issue, helps stigmatize those that have the disease.

I am a little disappointed that the bill got cut up as much but that is okay, I am not a greedy person, I will go for what we can get rather than the whole pie.

The disease like I said is growing rapidly. It will be in a very few years, if it doesn't slow down, it will be pandemic. If this disease does not stop, if we do not get a handle on this disease, if we don't make some hard choices and get a handle on this disease, then we are going to be making some very difficult and unpopular choices down the road. They will be necessary, though they will be distasteful, but they will be necessary if we don't get a handle on this disease.

Now, will this bill turn that around? Absolutely not. This is only, in my opinion, one minor step in that direction. What I am attempting to do is to bring to your attention today the priority in this state. The priority must change. The priority must be to get a handle on this disease, not to protect the privacy of those who get it. That privacy must be protected, no question about it, but it can be protected the same way your privacy is protected on any other communicable disease. I think by making this particular disease special we, in an attempt not to stigmatize the people who have it, I feel that we do stigmatize the folks who have it.

It is a very difficult issue, I put a lot of thought in it and I have had many nights when I laid in bed and just wondered, well, is this the right direction or the right direction? I am by far not an expert but I have got to tell you today that I do not accept what the experts tell us. It has not worked. What they tell us is the way to go has not worked, has not slowed this disease down one iota. It is going to continue. It has got to the point where most all of us probably know somebody, I don't know family member or anything, but most of us know somebody who has probably got this disease. I know I

do and my heart goes out to those folks. This is not a disease descended upon us from God for punishment, this is not a disease that inflicts upon a particular society, this is a communicable disease that affects us all and we need to get a handle on it.

With that, I won't go on and on. I just feel that the priority in this state is misplaced and we need to approach that. We need to get a handle on what is more important, the privacy of the unfortunate individuals that have come down with this disease and the unfortunate individuals that will come down with this disease, or get a handle on it for the benefit of us all and perhaps work towards a cure some day.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, Ladies and Gentlemen of the House: I just want to talk about the Minority Report that came out. Representative Treat said this is a public health issue. Well, if it is a public health issue, let's take the recommendation of the Director of Public Health in this state and the Public Health Department who supports this amendment. Right now, there are two release forms that need to be signed for any release of medical information to go from a physician to a physician or from a physician to an insurance company.

If the second release form is not signed right now, what happens is the medical record is transferred and on the medical record it says, incomplete medical record. Now, that is a flag to any physician or insurance company that says, wait a minute, I do not have a complete medical record in front of me now. So, right away, when you are trying not to discriminate against someone and you have this on your medical records, it does not help that person at all. This is a medical practice issue. Let's not look at this as a social issue. If a physician does not get a complete medical record, knowing whether or not someone has tested for HIV, whether it be negative or positive, that physician cannot do a good job of applying medical treatment to that person for any disease.

The penalties for confidentiality in this amendment do not change, there is still a penalty that needs to be paid if any of this information is leaked out. Your medical records are confidential. Whether an insurance company leaks it or a physician's office leaks it, there is a penalty involved. Life insurance companies are now requiring an HIV test for any large purchase of life insurance. This is how Magic Johnson found out he had AIDS. By denying this, we keep our heads buried in the sand.

Six years ago in 1987, we didn't know about AIDS as much as we do today. Times have changed, this is the 1990's, we don't have a release form to say that you have tuberculosis, you have gonorrhea, you have syphilis. This is a communicable disease and should be treated the same way as every other disease out there.

What we need to do is become more acceptable to the people who have this disease. The only way we will do that is to be more open about the disease. Let us not focus on the social stigma attached with the disease. We need to educate the people out there to say that because you have AIDS doesn't mean you are a bad human being.

All this amendment does is release medical information and the medical records from one

physician to another physician allowing them to look at the entire medical record.

I urge you to defeat the "Ought Not to Pass" Report and accept the Minority "Ought to Pass" as amended Report.

The SPEAKER: The Chair recognizes the Representative from China, Representative Chase.

Representative CHASE: Mr. Speaker, Men and Women of the House: I am not a member of the Human Resources Committee and I was not privy to the public hearing or to the work sessions on this bill. I did not plan to speak to this bill until I heard the debate today.

In a former life, among other things, I was trained as an AIDS trainer through my labor union. I met a gentleman who lost his job because his employer was a good employer who provided health insurance to his employees. The employer was notified that the gentleman I met had had an HIV test because it showed up as a cost to the employer through the health insurance charge and that gentleman was fired from his job.

I don't doubt that the information is supposed to be protected and that under the amendment being presented today, the intention is to continue to protect information. However, that is not the case in reality. When information is given to doctors without your known permission, that is you enter a clinical hospital, sign the automatic waiver that says, yes, you can do what you want with my records and that information is passed either from doctor to doctor or to insurance companies and employers, I believe you are at risk.

I do certainly support the Representative from Eastport, Representative Townsend's concerns about the spread of AIDS and his concerns with the HIV virus, but I do think this is a misplaced attempt to educate people about HIV and AIDS. The true cost of passage of this particular bill will only be borne by the individuals who have had an HIV test despite what the results of that test are.

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

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

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: I would just like to respond to the comment of the Representative who just spoke. The case that she cited, somebody being fired because of having an HIV test, was not as a result of medical records being released but was the result of a receipt of a bill, so let's put things in the right perspective. What we are talking about here is medical records.

The only other point I want to make is that you decide where your records go. When you sign a release of information, you have to specifically say to who, to where or to whatever these records are going to go to and that is the only place or the only person that that record can go to and you specify that in the release that you sign. There is no such thing in the world as a blanket release that you sign that goes to anybody and everybody. So, I just want to make sure that everybody is really clear on when you are signing a medical release form, I deal with these everyday, you specifically sign that so-and-so, you release the information of your records to go and you specifically write where your records are going to. I want people to be really clear about the

release of information relative to medical records.

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

Representative BEAM: Mr. Speaker, Men and Women of the House: This bill would discourage AIDS testing. Ensuring privacy to the patient will encourage AIDS testing and will help us to get a handle on this disease. Unfortunately, AIDS is a disease which has a social stigma that doesn't attach itself to victims of other maladies like polio, tuberculosis or hepatitis. I don't think this is right but, unfortunately, this is the current reality and that has to be taken into consideration when we are passing our laws. A person who has tested negative on an AIDS test may forget about that testing when his or her records are being transferred. The second written permission ensures the right to privacy about this very sensitive test.

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

Representative FARNUM: Mr. Speaker, Men and Women of the House: The gentleman from Eastport spoke of knowing people who have AIDS. I now have three good friends, two I have helped bury and the third one I think I will be going to his funeral in about six months. Eight years ago in this House, a bill was tried to be passed which would say we don't even want the doctors or the nurses or emergency ambulance people to know if a person has AIDS. I questioned all three and all three wanted to know if they had a patient that had AIDS, they wanted to know it. I think this bill should pass. I think if people have AIDS, that people who should know they have it, should be informed.

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

Representative MELENDY: Mr. Speaker, I would like to pose a question through the Chair to anyone who may answer.

I would like to tell about an incident and wonder if somebody could tell me how this bill would affect it if this bill were to pass. The incident happened when a person took a motor vehicle without the owner's permission and was chased by a police officer. He lost control of the stolen vehicle and went off the road. A state trooper arrived to back up the officer and was helping load the defendant to an ambulance when he bit the state trooper, drawing blood. He then spit on the other officer and told the officers and the ambulance personnel that he had AIDS and would infect them. Finding out whether the defendant was infected was nearly impossible because of the confidentiality. Could someone tell me if this bill would make it easier or more difficult for the District Attorney to get this information because some in the officers' situation feel that they should be able to be immediately told and that it should be easily known if the attacker had the HIV virus. Could somebody tell me how this would affect that?

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

The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, Men and Women of the House: In that situation, the current law allows for a court order to be obtained and have blood work drawn and done. That is already on the books.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House: I wanted to make one comment in regard to what was mentioned earlier about this bill facilitating the testing of persons for HIV. In fact, testing has increased and increased significantly during the last year in this state. This bill would do nothing to increase testing. In fact, this bill is really a bill in search of a problem that really doesn't exist.

We did not have any significant testimony before the committee that supported this bill. In fact, the committee outright rejected three of the four portions of the bill. In this last part that we have been discussing about the medical records, again, we did not have any significant testimony from the public or from professionals that this was a problem.

I urge you to accept the motion as it is currently presented. The legislation and policies that we currently have in place are working and I don't see any reason at this time to change our current policies.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Fitzpatrick.

Representative FITZPATRICK: Mr. Speaker, Men and Women of the House: I find myself in an awkward position on this bill because I appear on the Minority Report. As a new legislator, you learn by experience not to sign onto all bills but to read them first and to be careful when taking sides on an issue because you might find yourself on the floor some day defending the other side. I find myself in that position today.

I echo some of the testimony that has been given previously that there really was no compelling testimony given to the committee on this particular bill and it probably made sense to kill the entire initiative. There really is no justification for change. My concern ultimately is, if we go forth with this bill, that the only effect, the only effect will be the elimination of people coming forth or the hindrance of people coming forth for HIV testing and for treatment of AIDS.

Believe me, much stigma continues to surround AIDS and HIV. This is a very minor bill and I am afraid that the impact would be to put a chill on much of the advances we have made in HIV testing and AIDS treatment in Maine today.

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

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I just want to make some points. What we have on the books is not working. The disease is growing rapidly, it hasn't even slowed down. Is this bill the change that will make that slow down? Absolutely not. I don't want anyone to have any misthoughts as to whether this is going to solve any of the problems, it most certainly is not. As a matter of fact the bill I submitted in its entirety would not do that, it is a step in the right direction, in my opinion but when we get up and say nothing needs to be done because everything is working, that is wrong. The disease is growing and they don't know why.

I don't know enough about this to get up and say it is not working because of this and this and this. I am convinced that our priorities have to change

first before we are going to find any answers and that is what this attempts to do, at least go in that direction. Please don't allow people to come up and lull you into thinking everything is okay and everything is going along because that just is not the case. The disease is growing and in a very few years, it is going to be pandemic.

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

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: I just want to very briefly go over what this bill does because I think with all the debate we have had there might be some confusion. All this bill does is it allows your HIV testing status which is a part of your medical records to be released with the one permission that you give when you sign saying that you want to forward your records over to whoever you release them to. As it stands now, you have to sign a second release form to allow that HIV testing status to be released. So, all this is doing is eliminating that second release form you have to sign and that your HIV test, whether it is positive or negative, which is part of your medical record anyway, would be released with the only one release of information that you sign.

Mr. Speaker, I request the yeas and nays.

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

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

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: I would simply like to state in response to the last comments from the Representative from Eastport, Representative Townsend, that I don't think anybody who supports defeating this bill believes that everything is okay. I do think that people are aware that testing is an important part of the fight against AIDS and, as has been said many times, that confidentiality is crucial to get people to get tested.

I think the point that Representative Beam made earlier about the stigma still attached could be made. If you think about the fact that if it is not the fastest growing, I believe one of the fastest growing parts of the population to be testing positive for AIDS, are heterosexual teenagers. If you don't think that there is a deep concern for confidentiality, then just contemplate somebody in your family who is in that category having to announce that they have tested positive. It is a severely difficult situation to be in and you would want the same protection that has been in the law to continue.

I would just urge people to be aware that in order to encourage people to get tested, which is an important part of the fight against this disease, we need to keep the law the way it is. I would urge you to vote for the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Rydell.  
Representative RYDELL: Mr. Speaker, Men and

Women of the House: I do want to state that in current law it is required that two separate release forms be signed, that when a patient tests for HIV, that that patient is asked to sign a release form at or near the time that the test result is received stating whether the HIV information can be released when the patient signs a general release form.

That provision was put in the law in 1987 to protect the inadvertent release of HIV information and to make sure that the person signing a release form for general information knows that along with that you have given permission to release the HIV information.

Now, there are all kinds of reasons why people take HIV tests. I will wager that there are some of us in this chamber today who have taken an HIV test. There may be some very good reasons why. When our general medical information is released, we would want to know and to understand that that HIV information is protected, that the results of that test are protected unless we have signed a second release form.

It has nothing to do with the rise in AIDS. This bill does not address that question. I can think of a lot of ways that we could address that but it is not in this bill. This bill deals only with making sure that people understand what is being released when they sign their medical release form. When we enter a hospital or when we have out-patient treatment, we are asked to sign general release forms. If we are one of those people who has taken an HIV test, I dare say we would want to make the decision as to whether that information on that test is to be released with our general medical information. The only way we can decide that for ourselves is to be presented with that second release form and to sign that second release form.

I would ask you to think about it very personally and for your family members and your close contacts. It is necessary that we have very specific information about this particular test and this particular disease because of the other consequences for this information. We may not want to relate medical information to social consequences but the fact is that the two are related today and they will remain related for some time in the future at least, probably for the next two years in this state anyway.

It is also true that the incidents of AIDS in our country has not been rising at the same epidemic proportions as a few years ago. Unfortunately, the opposite is true elsewhere in the world. But, if we really want to address the question of preventing the spread of HIV, let's get on with some other bills, some other ways to do this. This is not that bill. This is a bill to protect all of us sitting here today.

I would ask you to please support the Majority "Ought Not to Pass" Report.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Treat of Gardiner 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. 133

YEA - Adams, Aliberti, Beam, Bowers, Brennan, Carroll, Cashman, Chase, Chonko, Clement, Cloutier, Coles, Constantine, Cote, Daggett, Erwin, Faircloth,

Farnsworth, Fitzpatrick, Gean, Gray, Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hoglund, Holt, Jacques, Jalbert, Johnson, Joseph, Ketterer, Kilkelly, Kontos, Lemke, Mitchell, E.; Mitchell, J.; Nadeau, Oliver, Pfeiffer, Pineau, Pinette, Rand, Richardson, Rotondi, Rowe, Rydell, Saint Onge, Saxl, Simonds, Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, L.; Treat, Walker, Wentworth, Winn.

NAY - Ahearne, Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Caron, Carr, Clark, Clukey, Coffman, Cross, Dexter, Donnelly, Driscoll, Dutremble, L.; Farnum, Farren, Foss, Gamache, Gould, R. A.; Greenlaw, Hillock, Hussey, Joy, Kerr, Kneeland, Kutasi, Lemont, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Melendy, Michael, Murphy, Nash, Nickerson, Norton, O'Gara, Ott, Paradis, P.; Pendexter, Pendleton, Plourde, Pouliot, Reed, G.; Reed, W.; Ricker, Robichaud, Ruhlin, Simoneau, Skoglund, Small, Spear, Stevens, A.; Strout, Tardy, Taylor, Thompson, Townsend, G.; Tracy, True, Tufts, Vigue, Young, Zirkilton.

ABSENT - Carleton, Cathcart, DiPietro, Dore, Heino, Larrivee, Libby Jack, Martin, H.; Michaud, Morrison, Plowman, Poulin, Whitcomb, The Speaker.

Yes, 60; No, 77; Absent, 14; Paired, 0; Excused, 0.

60 having voted in the affirmative and 77 in the negative with 14 being absent, the Majority "Ought Not to Pass" Report was not accepted.

Subsequently, the Minority "Ought to Pass" report was accepted, the bill read once.

Committee Amendment "A" (H-415) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

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**SECOND READER**

**As Amended**

**Later Today Assigned**

Bill "An Act to Improve the Unemployment Collection Process for Employer Contributions" (S.P. 264) (L.D. 802) (C. "A" S-156)

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

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

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**PASSED TO BE ENGROSSED**

Bill "An Act to Further Discourage the Smoking of Cigarettes by Minors" (H.P. 454) (L.D. 580) (C. "A" H-396)

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

**SECOND READER**

**Later Today Assigned**

Bill "An Act to Authorize Maine Financial Institutions and Credit Unions to Sell Annuities" (H.P. 778) (L.D. 1051) (C. "A" H-399)

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

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

**PASSED TO BE ENGROSSED**

Bill "An Act Concerning the Operation of Aircraft under the Influence of Intoxicating Liquor or Drugs" (H.P. 1084) (L.D. 1450) (C. "A" H-400)

Bill "An Act Authorizing Presidential Preference Primary Elections in the State" (H.P. 114) (L.D. 156) (C. "A" H-401)

Bill "An Act to Require Postgraduate Residency Training for Podiatric Medical Licensure and to Permit Temporary Residency Licensure" (S.P. 234) (L.D. 727) (C. "A" S-176)

Bill "An Act Regarding Reciprocity of Licensing Barbers and Cosmetologists" (S.P. 401) (L.D. 1232) (C. "A" S-178 and S. "A" S-187)

Bill "An Act Concerning Duplicate Fees Required by the Department of Environmental Protection" (H.P. 1023) (L.D. 1375) (C. "A" H-411)

Bill "An Act to Amend the Natural Resources Protection Laws" (H.P. 936) (L.D. 1259) (C. "A" H-412)

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.

**PASSED TO BE ENGROSSED**

Bill "An Act to Eliminate the Prescription Requirement for Hypodermic Syringes" (H.P. 587) (L.D. 791) (C. "A" H-388)

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

On motion of Representative Ruhlin of Brewer, the House reconsidered its action whereby Committee Amendment "A" (H-388) was adopted.

The same Representative offered House Amendment "A" (H-418) to Committee Amendment "A" (H-388) and moved its adoption.

House Amendment "A" (H-418) to Committee Amendment "A" (H-388) was read by the Clerk and adopted.

Committee Amendment "A" (H-388) as amended by House Amendment "A" (H-418) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-388) as amended by House Amendment "A" (H-418) thereto and sent up for concurrence.

**ENACTOR**

**Emergency Measure**

**Tabled and Assigned**

An Act to Require an Employer Majority on the Board of Governors of the Workers' Compensation Residual Market Mechanism (H.P. 292) (L.D. 379) (C. "A" H-304)

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

On motion of Representative Pineau of Jay, tabled pending passage to be enacted and specially assigned for Wednesday, May 26, 1993.

**ENACTOR**

**Emergency Measure**

**Later Today Assigned**

An Act Regarding Missing Children (H.P. 425) (L.D. 544) (S. "A" S-167 to C. "A" H-262)

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

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

**ENACTOR**

**Emergency Measure**

**Later Today Assigned**

An Act to Clarify the Tax-exempt Status of Community Mental Health Service Facilities (H.P. 586) (L.D. 790) (C. "A" H-311)

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

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

**ENACTOR**

**Emergency Measure**

**Later Today Assigned**

An Act to Amend the Minimum Safety Standards for Firefighters (S.P. 374) (L.D. 1130) (C. "A" S-153)

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

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

**ENACTOR**

**Emergency Measure**

**Later Today Assigned**

Resolve, to Establish a Commission to Study Nonregulatory and Market Solutions to Environmental Issues (H.P. 572) (L.D. 777) (C. "A" H-301 and H. "A" H-328)

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

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

**ENACTOR**

**Later Today Assigned**

An Act to Facilitate Municipal Road Construction (H.P. 144) (L.D. 189) (C. "A" H-299)

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

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

**ENACTOR**

**Later Today Assigned**

An Act to Encourage the Implementation of the Solid Waste Management Hierarchy (H.P. 525) (L.D. 709) (C. "A" H-297)

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

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

**ENACTOR**

**Later Today Assigned**

An Act to Authorize Special Property Tax Districts (H.P. 708) (L.D. 959) (C. "A" H-309)

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

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

**ENACTOR**

**Later Today Assigned**

An Act to Amend and Clarify the Solid Waste Management Laws (H.P. 756) (L.D. 1023) (C. "A" H-298)

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

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

**ENACTOR**

**Later Today Assigned**

An Act to Amend the Occupational Disease Law (S.P. 216) (L.D. 687) (C. "A" S-92 and H. "A" H-365)

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

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

**ORDERS OF THE DAY**

**UNFINISHED BUSINESS**

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

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Protect State Parks (H.P. 176) (L.D. 228)

- In House, Passed to be engrossed as amended by Committee Amendment "A" (H-92) as amended by House Amendment "A" (H-360) thereto on May 19, 1993.

- In 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.

TABLED - May 24, 1993 (Till Later Today) by Representative MITCHELL of Freeport.

PENDING - Further Consideration.

On motion of Representative Gwadosky of Fairfield, retabled pending further consideration and later today assigned.

The Chair laid before the House the second 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 24, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.  
PENDING - Passage to be Enacted.

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

**TABLED AND TODAY ASSIGNED**

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

An Act to Revise the Correctional Facility Board of Visitors Laws (H.P. 212) (L.D. 274) (C. "A" H-186)  
TABLED - May 24, 1993 by Representative PARADIS of Augusta.  
PENDING - Reconsideration (Returned by the Governor without his approval)

On motion of Representative Gwadosky of Fairfield, retabled pending Reconsideration (returned by the Governor without his approval) and specially assigned for Thursday, May 27, 1993.

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

An Act Regarding County Contingent Account Limits (S.P. 286) (L.D. 856) (C. "A" S-116)  
TABLED - May 24, 1993 by Representative JOSEPH of Waterville.  
PENDING - Passage to be Enacted.

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

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

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 24, 1993 by Representative GOULD of Greenville.  
PENDING - Motion of same Representative to Adhere.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Gould of Greenville that the House Adhere and specially assigned for Wednesday, May 26, 1993.

The Chair laid before the House the fourth tabled and today assigned 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)  
TABLED - May 24, 1993 by Representative GWADOSKY of Fairfield.  
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 Hoglund of Portland that the House accept the Majority "Ought to Pass" as amended Report and later today assigned.

**BILL HELD**

Bill "An Act Regarding Lobbying" (S.P. 295) (L.D. 881) (C. "A" S-183)  
- In House, Passed to be Engrossed.  
HELD at the request of Representative GWADOSKY of Fairfield.

On motion of Representative Gwadosky, the House reconsidered its action whereby L.D. 881 was passed to be engrossed.

On further motion of the same Representative, tabled pending passage to be engrossed and later today assigned.

**BILL HELD**

An Act to Extend the Repeal Date of the Laws Governing Biosynthetic Bovine Somatotropin (EMERGENCY) (S.P. 198) (L.D. 634) (S. "A" S-123 to C. "A" S-105)  
- In House, Failed of Passage to be Enacted.  
HELD at the request of Representative DEXTER of Kingfield.

Representative Dexter of Kingfield moved that the House reconsider its action whereby L.D. 634 failed of enactment.

On motion of the same Representative, tabled pending his motion that the House reconsider it action whereby L.D. 634 failed of enactment and later today assigned.

(At Ease)



The House was called to order by the Speaker.

The Chair laid before the House the following matter: An Act to Extend the Repeal Date of the Laws Governing Biosynthetic Bovine Somatotropin (EMERGENCY) (S.P. 198) (L.D. 634) (S. "A" S-123 to C. "A" S-105) - In House, Failed of Passage to be Enacted, which was tabled earlier in the day and later today assigned pending the motion of Representative Dexter of Kingfield that the House reconsider its action whereby whereby the Bill failed of enactment.

Subsequently, the House reconsidered its action whereby L.D. 634 failed of enactment.

The SPEAKER: The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, Men and Women of the House: I guess at this point I would urge you to vote for the enactment of this piece of legislation. It needs to be enacted with an emergency preamble. The only thing in my mind worse than a moratorium would be one with a three month gap in it. It would be sort of like shutting the barn door after the cows are out.

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 being necessary, a total was taken. 112 voted in favor of the same and 5 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 Encourage the Implementation of the Solid Waste Management Hierarchy (H.P. 525) (L.D. 709) (C. "A" H-297) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Chonko of Topsham, under suspension of the rules, the House reconsidered its action whereby L.D. 709 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-297) was adopted.

The same Representative offered House Amendment "A" (H-420) to Committee Amendment "A" (H-297) and moved its adoption.

House Amendment "A" (H-420) to Committee Amendment "A" (H-297) was read by the Clerk and adopted.

Committee Amendment "A" (H-297) as amended by House Amendment "A" (H-420) thereto was adopted.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: I would like to pose a question to the Chair. It is my understanding that all bills that are considered to be mandates are having the mandate preamble language amended to the bills, is that correct?

The SPEAKER: The Chair would answer in the affirmative.

The Chair recognizes the same Representative.

Representative ROWE: Mr. Speaker, Men and Women of the House: As a member of the State and Local Government Committee — our committee is working as you know on implementation statutes and we certainly have an interest on this issue and I think we are informed to a certain extent — I would just ask of the Chair if there is a vote taken and it does receive less than the required two-thirds of the total members of this body, there would still be a procedure by which that bill could be held, could be backed up and there could be a floor amendment taking off the mandate preamble language and the bill could be voted on without the preamble, is that correct, Mr. Speaker?

The SPEAKER: The Chair would answer in the negative.

The Chair recognizes the same Representative.

Representative ROWE: Mr. Speaker: Could I ask which part of that was incorrect?

The SPEAKER: The latter part.

Representative ROWE: Mr. Speaker, the bill could not be amended to remove the mandate preamble and then come before the body again?

The SPEAKER: It could be amended as long as there is a fiscal note to pay for 90 percent of the cost of the mandate.

Representative ROWE: Mr. Speaker, that was my question — as long as the body understands that if we pass it with a simple majority if it is not an emergency measure that it would then — we would in essence say the state would provide 90 percent of the funding and it would go to the Appropriations Committee?

The SPEAKER: The Chair would answer in the affirmative.

Representative ROWE: Mr. Speaker, thank you, I just wanted to make sure I understood the process and that the other members of the body did as well.

The SPEAKER: The Constitutional Amendment is quite clear.

Subsequently, L.D. 709 was passed to be engrossed as amended by Committee Amendment "A" (H-297) as amended by House Amendment "A" (H-420) thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act to Improve the Unemployment Collection Process for Employer Contributions" (S.P. 264) (L.D. 802) (C. "A" S-156) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Representative Libby of Buxton, the House reconsidered its action whereby Committee Amendment "A" (S-156) was adopted.

The same Representative offered House Amendment "A" (H-421) to Committee Amendment "A" (S-156) and moved its adoption.

House Amendment "A" (H-421) to Committee Amendment "A" (S-156) was read by the Clerk and adopted.

Committee Amendment "A" (S-156) as amended by House Amendment "A" (H-421) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-156) as amended by House

Amendment "A" (H-421) thereto in non-concurrence and sent up for concurrence.

On motion of Representative Aikman of Poland, the House reconsidered its action whereby L.D. 802 was passed to be engrossed.

On further motion of the same Representative, tabled pending passage to be engrossed and later today assigned.

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The Chair laid before the House the following matter: An Act to Facilitate Municipal Road Construction (H.P. 144) (L.D. 189) (C. "A" H-299) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Chonko of Topsham, under suspension of the rules, the House reconsidered its action whereby L.D. 189 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-299) was adopted.

The same Representative offered House Amendment "A" (H-422) to Committee Amendment "A" (H-299) and moved its adoption.

House Amendment "A" (H-422) to Committee Amendment "A" (H-299) was read by the Clerk and adopted.

Committee Amendment "A" (H-299) as amended by House Amendment "A" (H-422) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-299) as amended by House Amendment "A" (H-422) thereto in non-concurrence and sent up for concurrence.

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The Chair laid before the House the following matter: An Act to Amend the Occupational Disease Law (S.P. 216) (L.D. 687) (C. "A" S-92 and H. "A" H-365) which was tabled earlier in the day pending passage to be enacted and later today assigned.

On motion of Representative Chonko of Topsham, under suspension of the rules, the House reconsidered its action whereby L.D. 687 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-92) was adopted.

The same Representative offered House Amendment "A" (H-419) to Committee Amendment "A" (H-92) and moved its adoption.

House Amendment "A" (H-419) to Committee Amendment "A" (H-92) was read by the Clerk and adopted.

Committee Amendment "A" (H-92) as amended by House Amendment "A" (H-419) thereto was adopted.

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

Representative AIKMAN: Mr. Speaker, Men and Women of the House: This bill "An Act to Amend the Occupational Disease Law" is going to be extremely costly. I would like to read some excerpts for you. The Workers' Compensation Board and the Board of Maine Employees Mutual Insurance Company have asked

that we refrain from making any substantive changes to the Workers' Compensation Law. Maine's Workers' Compensation system needs time to stabilize.

This bill, I feel, makes a substantive and costly change to the Workers' Compensation Law which would require employers to pay medical benefits to claimants who are not currently disabled by the occupational disease. Maine employers have already been faced with enormous increases in Workers' Compensation Insurance this year and cannot afford anymore increases in their Workers' Compensation costs.

I urge you to vote against the pending motion and Mr. Speaker, I request a roll call.

On motion of Representative Ruhlin of Brewer, tabled pending passage to be engrossed (A Roll Call having been requested) and later today assigned.

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The Chair laid before the House the following matter: Bill "An Act Regarding Lobbying" (S.P. 295) (L.D. 881) (C. "A" S-183) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Representative Gwadosky of Fairfield, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-183) was adopted.

The same Representative offered House Amendment "A" (H-423) to Committee Amendment "A" (S-183) and moved its adoption.

House Amendment "A" (H-423) to Committee Amendment "A" (S-183) was read by the Clerk.

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

Representative GWADOSKY: Mr. Speaker, Men and Women of the House: I offer you House Amendment "A" to address what is, in my opinion, an inequity in the original legislation. The original bill is one of many reform measures that have been working their way through this process, some quietly and, as you know, some not so quietly. This particular bill, the original bill, for those who are not familiar with 881, would establish a one year prohibition on any legislator, former legislators, from lobbying the legislature.

I talked to some of the people who were involved in this legislation and, as you know, there are very few legislators currently who have come back to lobby the legislature. There were not any specific instances in which people have seen problems with legislators lobbying the legislature but there was a perception of potential undue influence that people were concerned about and that seemed to be the gist behind the rationale for the bill. I understand the rationale in the attempt of many to deal with the perception of undue influence that a former member could have attempting to lobby this particular process.

My concern was that the bill in itself was inherently flawed because of its exclusive nature. It suggests that only former legislators can potentially influence in an undue fashion, the legislative process. I would suggest that there are commissioners in this state, deputy commissioners,

associate commissioners, employees of the Governor's Office, who also have as equal, if not greater, possibility in attempting to influence this legislative process and/or coming back as lobbyists. You can take the example of the former Superintendent of Insurance, a very high profile person who came back as a lobbyist within a 12 month period. A former legal counsel for the Governor came back to lobby some specific issues.

You can carry this to any extent that you would want. People have a different feel for what is appropriate, what is inappropriate, what is appropriate perception — you and I can disagree that the former executive director of the State Planning Office shouldn't have been hired back within the same year giving state facilities to do his work. Perhaps we think that is inappropriate or not. I am not trying to argue those cases, I am simply trying to create parity between the perception of an undue influence from a former legislator as well as a commissioner, associate commissioner or others.

The purpose of this bill quite simply, as you can see in the amendment, says that any unclassified employee in the executive branch employed in a policy-influencing position that are defined in Chapter 71, Title 5 and a member of the Governor's Office may not engage in lobbying members of the legislature for one year following termination of that employee's state employment.

I think it is a friendly amendment that enhances this legislation. It treats state employees, commissioners and associate commissioners in the same way that we would choose to treat legislators, former legislators, if we think this is appropriate. I understand that there are members of this body who don't think this legislation is necessary in itself. We can argue that later on but I think at the very least we ought to try to create some parity between former legislators and former members of the executive branch. I would urge you to adopt the following amendment.

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

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: I would like to commend the Majority Leader, Representative Gwadosky, for putting this bill in. I, having worked this bill in the State and Local Government Committee, would concur that this does strengthen the bill and I think it is an appropriate and very proper amendment to it. I encourage you to adopt it.

Subsequently, House Amendment "A" (H-423) to Committee Amendment "A" (S-183) was adopted.

Committee Amendment "A" (S-183) as amended by House Amendment "A" (H-423) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-183) as amended by House Amendment "A" (H-423) thereto in non-concurrence and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

At this point, the rules were suspended for the purpose of removing jackets for the remainder of today's session.

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

**SECOND READER**

**As Amended**

**Later Today Assigned**

Bill "An Act to Amend State Law Regarding HIV Testing" (H.P. 744) (L.D. 1002) (C. "A" H-415)

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

On motion of Representative Treat of Gardiner, tabled pending passage to be engrossed as amended and later today assigned.

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

**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act to Limit the Number of Bills That May Be Filed by a Legislator" (H.P. 366) (L.D. 469)

Signed:

Senators: BERUBE of Androscoggin  
ESTY of Cumberland

Representatives: KILKELLY of Wiscasset  
GRAY of Sedgwick  
AHEARNE of Madawaska  
WALKER of Blue Hill  
ROWE of Portland  
JOSEPH of Waterville  
DUTREMBLE of Biddeford

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-424) on same Bill.

Signed:

Senator: BUTLAND of Cumberland

Representatives: YOUNG of Limestone  
BENNETT of Norway  
LOOK of Jonesboro

Reports were read.

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

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

**SENATE PAPERS**

The following Communication:

Maine State Senate  
Augusta, Maine 04333

May 25, 1993

Honorable Joseph W. Mayo  
Clerk of the House  
State House Station 2  
Augusta, Maine 04333

Dear Clerk Mayo:

Please be advised that the Senate today insisted and joined in a Committee of Conference on the disagreeing action between the two branches of the Legislature on Bill "An Act to Improve Communication between the Executive and Legislative Branches" (H.P. 419) (L.D. 538).

Sincerely,

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

Was read and ordered placed on file.

The following Communication:

Maine State Senate  
Augusta, Maine 04333

May 25, 1993

Honorable Joseph W. Mayo  
Clerk of the House  
State House Station 2  
Augusta, Maine 04333

Dear Clerk Mayo:

Please be advised that the Senate today insisted and joined in a Committee of Conference on the disagreeing action between the two branches of the Legislature on Bill "An Act Concerning Limits on Security Deposits" (H.P. 898) (L.D. 1213).

Sincerely,

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

Was read and ordered placed on file.

**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act to Regulate the Use of Aircraft for Surveillance Purposes by Law Enforcement Agencies" (H.P. 889) (L.D. 1203)

Signed:

Senators: HALL of Piscataquis  
CAREY of Kennebec

Representatives: NASH of Camden  
ROBICHAUD of Caribou  
STEVENS of Sabattus  
BENNETT of Norway  
TRUE of Fryeburg

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-425) on same Bill.

Signed:

Senator: HANDY of Androscoggin

Representatives: DAGGETT of Augusta  
GAMACHE of Lewiston  
MICHAEL of Auburn  
BOWERS of Washington  
LEMKE of Westbrook

Reports were read.

Representative Daggett of Augusta moved that the House accept the Minority "Ought to Pass" Report.

Representative Bennett of Norway requested a Division.

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

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: This is an accumulation of a year's work by many people.

I have before me today a letter I received from the Maine State Police signed by Lieutenant Alfred R. Skolfield. It says, "Dear Senator Carey and Ms. Daggett: I am writing in regard to L.D. 1203, An Act to Regulate the Use of Aircraft for Surveillance Purposes by Law Enforcement Agencies. The Bureau of State Police supports enactment of L.D. 1203 as amended by Committee Amendment "A." The amendment contains the changes we requested in the part designated Section 1, subsection 4. That portion of the bill outlines limitations on law enforcement officers participating in marijuana eradication. For a year now, I have worked with MDEA, the Attorney General's Office and the State Police and we finally come to a bill that we all agree on and I would urge passage."

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

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: The hour is late and I am not going to go into a lot of debate on this issue. I personally worked in the drug enforcement field for nine years. I did a lot of enforcement in the eradication program, I was there when it started. I know that most of the time, 99 percent of the time, when they are flying low flights, they have centered in on a suspicious area, suspicious people that are

in the business of growing. Just for everyone's personal knowledge, marijuana is probably the largest cash crop grown in this state. It is big business. I have seen plots where they protected the plots of marijuana with firearms, where they set traps up around the different plots.

I personally feel that the use of aircraft is really necessary in controlling the cultivation of marijuana in this state and I would urge you not to support the "Ought to Pass" so we can pass the "Ought Not to Pass" Report.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: Speaking as the Representative from District #89 only and not as the Majority Whip, I have listened to the well-intentioned comments of Representative Bailey and he knows that I have the highest respect for him and the work that he did in his former profession as a Maine State Trooper. But, I have to disagree with him on the contents of this bill because I think the body needs to understand where this bill is coming from, where the sponsor, Representative Townsend of Washington County, is coming from.

When Representative Townsend began work on this bill, he went to the Attorney General's Office and worked closely with them. Unbeknownst to me, a person that I know in that office had left some very important guidelines (a draft of this bill) before he resigned as an Assistant United States Attorney and Assistant Attorney General of the state. He was one of our chief BIDE prosecutors for several years.

I met with him this winter and he encouraged me to work on this bill because there were no written guidelines in law regarding surveillance flights by helicopters. It was important that the Department of the Attorney General and the Department of Public Safety have written guidelines. The best written guidelines are in statute, I repeat, the best ones are in statute.

This isn't an anti-MDEA bill. This is a pro-law enforcement bill because what it does is protect the state and the officers of the state who are in the helicopter if there is ever a civil suit filed against the State of Maine by any land owner.

The first question in court is, do you have written guidelines to follow, Mr. Detective, Mr. Trooper or Mr. County Deputy? Do you have any guidelines to follow when you are using surveillance of private property? If the answer is no, then the assumption is that you can do what you want and you can violate people's privacy, you can come down 40 feet or stay at 4,000 feet, but you can do what you want. Every person has their own modus operandi for flying over the citizens of this state, but if you have written guidelines, what this bill proposes to do, and what the Attorney General's Office has been working on, it is clear that the U.S. Supreme Court has to be followed, their edict has to be followed, because it is the law of the land. The Public Policy Board that was set up by this legislature last year has to be followed, the MDEA advisory board, that is what these written guidelines are all about, that is where they are coming from. That is why Lt. Colonel Skolfield endorses them. He is the chair of that public advisory board, tomorrow his nomination is before the State and Local Government Committee to become Colonel of the Maine State Police. I think he speaks with some experience and some authority when

he says this is a good bill. If we fail to take action, we open ourselves to several more lawsuits and several are pending now.

Last summer, several private citizens in this state said that we don't like those helicopters hovering over our private property looking into our backyard when they don't have justification. I spoke to my District Attorney and he said one of the unpublished reasons for helicopter flights is intimidation. We feel that the more there are of these helicopter flights, the less people will feel that they can just go out and plant marijuana. They are not going to find all the marijuana that is planted, they don't have enough helicopters or enough manpower to do that. They would be the first to admit it, but they feel that by publicizing the event, it will intimidate people and scare them not to grow. Well, that is one of the uses of law enforcement, but it has to be done legally. It has to be within clear guidelines. We have to have something to rely on in court when a private citizen takes us before a judge and says, "You have violated my rights as a citizen of the United States." That is what this bill seeks to do.

I don't understand what is bad about it. we fought for years to get a high speed pursuit policy written and mandatory. It was a Senator from Washington County who filed a bill that came before the Judiciary Committee that we passed unanimously four years ago that provided that every police department in this state has to have a written high speed pursuit policy. Why? Because if you run someone off the road or if you collide with them and you kill them, you have to be able to say to the judge, let alone the family, I was following the written policy of my department, I wasn't acting on my own. It is called professionalism. That is what we need to instill and encourage in our law enforcement in this state.

I urge you to support the Minority "Ought to Pass" Report for very many good reasons, least of all the fear that we don't have to spend thousands of dollars defending ourselves when we could take a simple step today and pass this bill.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I have a question. Is it then I should understand that the Representative from Augusta is saying that the Attorney General's Office and the Maine State Police cannot now write guidelines for these things? And, is this bill different than the bill that was passed requiring them to come up with guidelines for high speed pursuit?

The SPEAKER: Representative Donnelly of Presque Isle has posed two questions 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, Men and Women of the House: A very fair question — what we have in this bill, with only a minor exception that was suggested by Lieutenant Skolfield, is the written policy that the Maine Drug Enforcement Agencies themselves have come up with. I worked extensively with these folks. I went to three board meetings and I met with them a number of times in the Attorney General's Office. I purposely alienated those folks

that wanted to use this to beat up on the police agencies of this state, purposely alienated them because I did not agree with their tactics. But, what you will find in this amendment that replaces the bill pretty much is almost entirely what the Maine Drug Enforcement Agency has come up with themselves for rules, this puts it in statute.

Any other suggestions on it, other than from cosponsors, has come from Lieutenant Skolfield and the Maine Drug Enforcement Agency. I hope that answers your question.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: In the last session, those of us who served on Audit and Program Review, did quite an extensive audit on our drug enforcement. However, since that time, I have had little chance to use the drug enforcement agency in my hometown. I believe you have got to be very careful of what we do to tie the hands of the drug enforcement agency in this state.

We had a case in town of 150 plants being grown up in what we call the Togue Brook section of town. Knowing the town as well as I do, I know the land as well as the back of my hand or the palm of my hand, I know exactly where it is and it is not a place that people travel, it is not a place ever to be found. It was found by the helicopters, otherwise those 150 plants (I don't even know what they look like) were supposed to have been some of the best quality marijuana that they have found in the State of Maine. I have been told that the soil there is very good for growing marijuana.

Those of us who served on the Audit Committee heard mostly from the people who were concerned about the helicopters coming too close and they were also the ones who were very concerned about what was growing in the back forty. Well, if I was growing marijuana down in the back forty, I would be a little concerned too when the helicopters were hovering over us. I would get a little nervous. If I didn't have anything down in the back forty, I could care less. Remember, these helicopters are our Army Air National Guard and they do not cost the state anything, we are getting our federal dollars back and they are doing the surveillance for us.

I am going to vote "Ought Not to Pass" on this and support Representative Bailey on this and I wish you would too.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I would like to speak just briefly about the progression of this bill in committee to help some of you understand the context in which we dealt with it.

We had had a couple of bills that dealt with this similar issue. Of course, this one Representative Townsend had spent quite some time working with MDEA and Colonel Skolfield and the Attorney General's Office in an attempt to meet the needs of many of Maine's citizens. There has been a lot of concern about the helicopter overflights and the impact of those flights on many of our citizens. There was not a good method for dealing with the complaints. The policy that MDEA had was not extended to other law enforcement agencies and it was a real problem.

Unfortunately for the public hearing on this bill and the other bill, the large majority of people who

spoke dealt with the issue of the legalization of marijuana. It was not an issue in front of us and it caused quite a bit of confusion about the purpose of the bill.

I want to assure you that this bill is supported by Colonel Skolfield. He has worked with the committee and with Representative Townsend to find something that will protect Maine citizens while keeping in place the marijuana eradication program. With this bill, it would be extended to other law enforcement agencies so that the behavior of law enforcement officials, all law enforcement officials, can be standardized and the bill helps to set up a method for dealing with complaints. This is a very appropriate piece of legislation which provides protection to citizens in this state for their civil rights while maintaining the current marijuana eradication program. I do hope that you will join me in supporting the "Ought to Pass" Report.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: In testimony as a member of the Audit and Program Review, as was alluded to by the good Representative from Berwick, I, too, was concerned about the flights to begin with. With that in mind, would you permit me please to ask a question of the sponsor of the bill, Representative Townsend?

The question is, in the Audit Committee that you were a member of also, the great concern was the low flying ships and the fear and apprehension that it caused to members of the community. Is there a specific way that they address the number of feet that they would fly? I know they alluded to it in committee and I am wondering whether that is part of the legislation?

The SPEAKER: Representative Aliberti of Lewiston has posed a question through the Chair to Representative Townsend of Eastport who may respond if he so desires.

The Chair recognizes that Representative.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: A very fair question. The answer is yes. Federal law allows them to fly about 400 feet without a warrant, they are perfectly legal and this bill does nothing to interfere with that at all. However, if they are going to fly below 400 feet for other than emergencies, if they have mechanical problems, they are allowed to go below 400 in landing and in taking off, but for any other surveillance purposes, if they go below 400 feet, they have to obtain a warrant from the proper authorities. The bill does not touch what federal law allows them to do, they can fly over 400 feet without a warrant. I hope that answers your question.

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

Representative PFEIFFER: Mr. Speaker, Members of the House: I was one of the sponsors of the other bill referred to by Representative Daggett. I would just like to reinforce what Representative Townsend said. Our objective in that other bill, which has now been incorporated in this one, was merely to conform Maine law to federal law. The case of Riley vs. Florida is very clear and specific about the 400 foot level. That has now been incorporated in this bill and brings us in conformity with the United States Supreme Court case.

The SPEAKER: The Chair recognizes the

Representative from Wilton, Representative Heesch.

Representative HEESCHEN: Mr. Speaker, Members of the House: It has been implied here that you only have to be concerned or worry about this if you are guilty of growing something. I think that is an unfair characterization of the issue surrounding this particular piece of legislation. In fact, that is an argument for giving up more and more of our constitutional rights and privacy just to achieve some sort of greater good or security.

I think what this piece of legislation is all about is procedure and accountability and that is what has been lacking in this whole helicopter situation.

I would argue that this doesn't go far enough in achieving accountability; however, it is a first step.

I think the 400 feet, as has been alluded to as the big problem, I think that is the big problem. Unfortunately, we have got a real sense of denial among those who are flying these helicopters or riding in them as to what is really happening.

I don't think many people here really know what it is like to be under one of these helicopters or experience one of these jobs. Last year I was in one of my small towns, I happened to be in the town office, they had evening hours, I was there when one of the residents of that town came in very shaken. He noticed me there and said I need to talk to you. We went and talked to the selectmen there for a bit first. It turned out — I went afterward up to his house, which wasn't far away and apparently a helicopter had spent considerable time over his house that day at very low levels. Clearly, 400 feet wouldn't have caused the kind of trauma that I observed there. He personally wasn't home but his wife had been home, his young son was home, his married son was home next door, his daughter-in-law was home next door and their grandkid was home next door. Everybody was fairly traumatized, including a hunting dog which just sort of cowered around with its tail between its legs and crouched back into its house. Now, hunting dogs don't normally do that when there is someone new coming up to the door, they are out there at the end of the chain, leaping and barking and so forth. They also had a steer that was tethered out there that was dead. They said what happened was the helicopter spent so much time at tree-top level that the — there were no marks on the steer, I looked at it, I think it had heart failure. Animals are flighty things, cows are flighty things. I went back home that night and I mentioned this to Pam and she said, "Well yeah, I was taking our cow over and there was something new, a little new dirt there and it jumped." So, cows do this. The grandkids were just really in shock.

The irony about this is that this guy had a couple of years back tipped off DEA about a marijuana patch some place. He wasn't growing anything, someone was just calling in anonymous tips about something.

Somewhere else in that town, I encountered an elderly couple who related to me an account that I had heard secondhand from someone else who had talked to them. She said I was sitting in my window, just on the phone with my friend and, then all of a sudden, I said, "Oh, my gosh, there is a helicopter coming up my driveway." Well, I sat in the bay window where she sat and, frankly, if you could see a helicopter there and it was at 400 feet, it would be half way across the town, you wouldn't get the

impression of it coming up my driveway. And, there was someone else in town that commented about helicopters coming up their driveway, that that was their experience.

Four hundred feet is a long way up there and I think that, again, there is some sort of denial going on here. I think we do have to establish some sort of accountability so we don't just keep imposing on the people of this state, most of whom are completely law-abiding citizens to put up with this kind of stuff just to get some purported criminal that perhaps you could get by diligent observance some other way without infringing on our civil liberties. I would urge you to accept this report.

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

Representative ROBICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you to reject the Minority "Ought to Pass" as amended and go on to accept the Majority "Ought Not to Pass" Report.

One of the reasons, as was stated, was we did have several people come and testify in front of our committee that they had what they termed "unpleasant experiences" with MDEA helicopters. It is my opinion that this bill may not, and I believe will not, solve those particular experiences. Currently, the MDEA Marijuana Eradication Program was designed so that law enforcement could go out and determine where this currently illegal substance was being grown or trafficked.

I would draw your attention to the bill. The bill states that the aircraft would not have cause to go into an area unless they received information that marijuana was being grown or was being transferred. That means that law enforcement now has to rely on the public-at-large for information. The suggestion was made that certain people were subject to helicopter overflights because of information from the public. Isn't that what this bill is now doing? It is saying that law enforcement is subject to public information. The other thing I believe is that this can be handled by rulemaking. We have heard different comments made and I believe there is not a need for legislation.

Another point that was made by Chairwoman Daggett, that many, many proponents of this legislation, as well as other similar legislation, came and focused their testimony primarily on the issue of whether or not marijuana should be a legal substance in this state. That was not an issue before us then, it is not an issue before us now. What we are being asked to do is accept a piece of legislation that (in many elements) subjects law enforcement to very restrictive guidelines as far as doing their job and opens it up to the whim of informants as a tool for enforcing. I feel that this legislation is not necessary, it can be handled through administrative process and, as was stated, the Audit and Program Review Committee has done extensive work in reforming the Maine Drug Enforcement Agency and I would urge you to vote against the Minority "Ought to Pass" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Howland, Representative Hichborn.

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: Some people think I am kind of an oddball and I guess I must be. It so happens that last year I bought an 83 acre parcel of land with an old building on it. It is the beginning of a

ten year project. One day last summer while I was out there with my dog and my five year old grandson, along came the helicopter at tree height. The dog, he ran and he played. I guess he must be an oddball, it didn't scare him any. For the next few days, three days in a row, the helicopter came. The grandson looked forward every morning to this visit and he would say, "Grampy, when are we going to go and see the helicopter again?" I guess he must be an oddball too.

I don't have any guilty conscience, I didn't care how low they flew. I have nothing to hide, it didn't scare me any, it didn't scare the kid, it didn't scare the dog. I have never yet had any reason to complain about any law enforcement officer whether it was a warden, member of the police or any other security agent. I see nothing wrong with this if we haven't anything to hide.

I hope you will vote right when you vote.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Clukey.

Representative CLUKEY: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair. This would be to anybody on the Legal Affairs Committee.

When this bill came up before your committee, did anybody from public safety testify on the bill and, if so, were they for or against?

The SPEAKER: Representative Clukey of Houlton has posed a question through the Chair to any member of the Legal Affairs Committee who may respond if they so desire.

The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Men and Women of the House: We did have someone testify and I am sorry that I have forgotten his name but I believe he is the new head of the MDEA. There are only several state police officers that work with that and he is the head of it. At the point in which he testified, it had been a very, very long public hearing. It was the second that we had on this same issue on a different day and we had heard voluminous amounts of testimony that had no relationship to the bill. He did testify at the end, offering to provide information to the committee and he did attend the work session providing information to the committee. After the committee worked on the bill several times, Representative Townsend, unfortunately, had been unable to come to the public hearing and to one of the first work sessions. He did then come back in front of the committee. I personally talked with Colonel Skolfield who has approved the committee amendment and in fact, I believe, would like to see it passed.

So, there was input from the agency throughout the entire time. There was opposition to several parts of the bill. In fact, the original committee amendment that went forward had several pieces in it that Colonel Skolfield was concerned about. He was not the one who participated in the work session, Lieutenant Harmon was there, as he is with our committee on other issues.

There were several issues that were addressed. One of them is — there is a section where it talks about dressing in military, mercenary camouflage or ninja-style clothing — that section was amended to leave out some words that Colonel Skolfield felt would prevent the MDEA officers from wearing their uniforms. They had a jumpsuit type uniform that they

wear to protect their clothes and there was a phrase in there, so that was deleted.

There was another issue, which on the amendment I believe is Item C, and the way the original Committee Amendment read, it might have prevented the MDEA officials from protecting themselves if they had been fired on. It has to do with firing out of the aircraft, so we changed that so that it would not prevent the MDEA officials from protecting themselves in the off-chance something should happen.

The third one that we changed at Colonel Skolfield's request (which was D) and currently — I think it originally said something like "may not possess explosive devices." There was concern that ammunition is a type of explosive so that was changed to read "possess an explosive device other than ammunition." Those were the three changes that were made at the request of Colonel Skolfield. Then in response to some concerns by Representative Townsend and myself, he did send a letter which Representative Townsend read to you earlier indicating his support for this bill. His primary concern was to extend the State Police's operating procedures to other law enforcement agencies. Sometimes there are others that are involved and behave in a somewhat questionable manner. There has been a problem with complaints — following up on a complaint and not being able to figure out exactly who caused the complaint so there is a better handle on that with this bill. It provides that all complaints are followed up on by some agency, whether it be the local agency or whether it be the State Police so that there is really a process for handling the problems that come about due to this.

I do hope that you will support it. It is actually a policy that is in place and it extends that and formalizes it.

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

Representative STEVENS: Mr. Speaker, Men and Women of the House: Not all helicopter flights are drug-related. Some of the complaints that came into the Department came in in February and most of their flights that were on the drug end of it were in August, September and October.

Don't forget Search and Rescue when you vote on this bill.

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

Representative BOWERS: Mr. Speaker, Men and Women of the House: My good friend from Sabattus is right, there were people who were complaining about February flights. That's not part of the marijuana eradication program. We actually found it quite interesting to hear that testimony.

I did want to make a few points. The people that came and was vehemently supporting the legalization of marijuana all vehemently opposed this bill. They do not like this bill. They didn't like the idea of codifying what is already going on and what the good Representative from Eastport has helped codify. I find that amusing.

Secondly, this is a bill with a lot of compromise in it. Colonel Skolfield was involved and, as Representative Daggett said, we worked through all the issues that the State Police had trouble with and I think the committee did a good job of working through the bill, as our committee always does.

Thirdly, as I understand federal case law, when a helicopter flies over a house, over 400 feet, this is



just normal air flight and we are not infringing on that in any way, shape or form but the way I understand federal case law, when a helicopter drops below 400 feet, that constitutes a search. So, is somebody was going to walk into my house or onto my land, they would usually have to have a search warrant. This is very simple so, if they are going to drop down and do a search, they have to have a search warrant.

I think this is a good bill. I was willing to compromise on it, a number of people were willing to compromise on it and I urge you to vote for the Minority "Ought to Pass" Report.

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

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I wouldn't take Colonel Skolfield's willingness to work on this bill as support of this bill. I have talked to Colonel Skolfield myself and Colonel Skolfield advised me that it doesn't handcuff the law enforcement people, they would be able to work within the guidelines of this bill.

I do think, though, that it is a foot in the door and you are going to see the erosion continue year after year after year and eventually the law enforcement people won't have this tool to work with.

I urge you to vote no.

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

Representative DAGGETT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to add that I think many of you are aware of the problem of trying to move legislation through committees and out onto the floor and I would suggest to you that there were some difficulties and we did try to get this on a fast track out of the committee.

However, I would like to read to you this sentence from the letter dated May 20th. "The Bureau of State Police supports enactment of L.D. 1203 as amended by Committee Amendment "A." If you have any questions, please contact me. Sincerely, Al." It was written to Senator Carey and myself.

It is very clear to me and it was very clear to me when I spoke with Colonel Skolfield exactly what his sentiments were at the time this amendment was done. The bill as has been represented to you went through many changes. Colonel Skolfield, I am sure in some of the earlier parts of it, was unaware of some of the changes and how they developed. I elaborated to you the changes, the final changes, that he wished to make which we sent the original committee amendment back through the process so that the committee amendment would come out with his changes in it. I don't have any question in my own mind but that Colonel Skolfield supports what is in front of you.

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

Representative FARNUM: Mr. Speaker, Ladies and Gentlemen of the House: I take action on one thing that has been said today, that people fear helicopters — last week in South Berwick, we had Law Enforcement Awareness Day and two helicopters landed in the football field. The helicopter pilot had just one problem, every kid there wanted a ride in the helicopter, they weren't afraid of it.

The SPEAKER: The Chair will order a vote. The

pending question before the House is the motion of the Representative from Augusta, Representative Daggett, that the House accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Bailey of Township 27 requested a roll call.

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

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

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

ROLL CALL NO. 134

YEA - Adams, Aliberti, Beam, Bowers, Brennan, Carleton, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Cloutier, Coles, Constantine, Cote, Daggett, DiPietro, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hogle, Holt, Hussey, Jacques, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Lipman, Melendy, Michael, Michaud, Mitchell, E.; Nadeau, O'Gara, Paradis, P.; Pfeiffer, Pinette, Plourde, Poulin, Pouliot, Rand, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Stevens, K.; Strout, Sullivan, Swazey, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Winn, The Speaker.

NAY - Ahearne, Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Carr, Clukey, Cross, Dexter, Donnelly, Farnum, Farren, Foss, Greenlaw, Joy, Kneeland, Kutasi, Lemont, Libby Jack, Libby James, Lindahl, Look, Lord, MacBride, Marshall, Murphy, Nash, Ott, Pendexter, Pendleton, Plowman, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Stevens, A.; Taylor, True, Tufts, Vigue, Young, Zirnkilton.

ABSENT - Clement, Coffman, Dore, Heino, Hillock, Jalbert, Larrivee, Lemke, Marsh, Martin, H.; Mitchell, J.; Morrison, Nickerson, Norton, Oliver, Pineau, Richardson, Spear, Thompson, Whitcomb.

Yes, 81; No, 50; Absent, 20; Paired, 0; Excused, 0.

81 having voted in the affirmative and 50 in the negative with 20 being absent, the Minority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-425) 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-425) and sent up for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 268) (L.D. 346) Bill "An Act to Enable Parents of Children with Mental Illness to Care for Their Children at Home" Committee on **Human Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-426)

(H.P. 815) (L.D. 1101) Bill "An Act to Encourage Participation in Primary Elections" Committee on **Legal Affairs** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-429)

Under suspension of the rules, Consent Calendar Second Day 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. 4 were taken up out of order by unanimous consent:

**SENATE PAPERS**

**Ought to Pass as Amended**

Report of the Committee on **Judiciary** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-197) on Bill "An Act to Expand the Definition of Escape" (S.P. 248) (L.D. 767)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-197).

Report was read and accepted, the Bill read once. Committee Amendment "A" (S-197) 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-197) in concurrence.

**Ought to Pass as Amended**

Report of the Committee on **Housing and Economic Development** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-198) on Bill "An Act to Increase Tourism Visits and Tourism Revenues for the State" (EMERGENCY) (S.P. 480) (L.D. 1478) (Governor's Bill)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-198).

Report was read and accepted, the Bill read once. Committee Amendment "A" (S-198) 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-198) in concurrence.

**Ought to Pass as Amended**

Report of the Committee on **Utilities** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-158) on Bill "An Act Allowing the Town of Pittsfield to Obtain Water from the Town of Burnham" (S.P. 450) (L.D. 1417)

Came from the Senate with the Bill and accompanying papers indefinitely postponed.

Subsequently, the bill and accompanying papers were indefinitely postponed in concurrence.

**Non-Concurrent Matter**

Bill "An Act to Protect Children from Illegal Tobacco Sales" (H.P. 554) (L.D. 750) on which the Majority "Ought Not to Pass" Report of the Committee on **Legal Affairs** was read and accepted in the House on May 24, 1993.

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

Subsequently, the House voted to Adhere.

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

**SENATE PAPERS**

**Divided Report**

Majority Report of the Committee on **Transportation** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-186) on Bill "An Act to Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Fiscal Year Ending December 31, 1994" (S.P. 464) (L.D. 1456)

Signed:

Senators: BRANNIGAN of Cumberland  
GOULD of Waldo  
PARADIS of Aroostook

Representatives: MARTIN of Van Buren  
DRISCOLL of Calais  
O'GARA of Westbrook  
RICKER of Lewiston  
BAILEY of Township 27  
BAILEY of Farmington  
MELENDY of Rockland  
STROUT of Corinth  
HUSSEY of Milo

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

Signed:

Representative: PLOURDE of Biddeford

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-186)

On motion of Representative O'Gara of Westbrook, the House accepted the Majority "Ought to Pass" Report, the bill read once.

Committee Amendment "A" (S-186) 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-186) in concurrence.

### CONSENT CALENDAR

#### First Day

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

(S.P. 129) (L.D. 381) Bill "An Act to Enact a New Article on Negotiable Instruments in and to Make Necessary Conforming Amendments to the Uniform Commercial Code" Committee on **Judiciary** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-191)

(S.P. 235) (L.D. 728) Bill "An Act to Make Provisions of the Maine Human Rights Act Consistent with Federal Law" Committee on **Judiciary** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-195)

(S.P. 266) (L.D. 803) Bill "An Act to Provide Immunity for Private Physicians in Public Hospitals" Committee on **Judiciary** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-196)

(S.P. 329) (L.D. 1005) Bill "An Act to Provide Training for Activity Professionals" Committee on **Human Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-194)

(S.P. 381) (L.D. 1137) Bill "An Act to Amend the Maine Business Corporation Act" Committee on **Judiciary** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-192)

(S.P. 404) (L.D. 1262) Bill "An Act Regarding Child Molestation" Committee on **Judiciary** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-193)

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

The Chair laid before the House the following matter: Bill "An Act to Amend State Law Regarding HIV Testing" (H.P. 744) (L.D. 1002) (C. "A" H-415) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

The SPEAKER: The Chair recognizes the

Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, I move the indefinite postponement of L.D. 1002 and all its accompanying papers.

Mr. Speaker, Men and Women of the House: Since the prior debate on this bill when this body accepted the Minority "Ought to Pass" Report, several persons have expressed confusion about what the bill does and does not do.

If this bill is enacted, you will not be able to prevent information about your HIV status from being sent to insurance companies, lawyers and others unless you prohibit all of your medical records from being transferred. The change will discourage persons who are at risk of HIV infection from getting tested at a time when we should be encouraging people to get tested.

I ask that you vote for the indefinite postponement of this bill and I request a roll call.

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

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: I now speak in support of the motion after voting for the bill. Let me share with you the reason I have changed my position.

I believed, having heard the debate in the House, that it would be helpful to get this information in order to have the statistical purposes and have this health information passed on. After voting the way I did and speaking with several persons in the debate, I have now learned that as a practical matter, this is what is going to happen and it is very disturbing and I am going to change my vote and I hope you will do the same.

In an ordinary Workers' Comp case, an automobile accident case, the consumer is given a medical authorization that they sign. They are not trained, they are not professionals, they are only given authority so that someone can get their bills so that they can have them paid. If we pass this bill, that information as to whether or not they have HIV positive is going to go all over the place. It is going to go to insurance company files, it is going to go in lawyers' files, it is going to be susceptible to misuse. Even though this bill is well intended, what can happen as a result of this being passed will be disastrous and create a severe problem for people that have a positive test.

I urge you to support 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 Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, Ladies and Gentlemen of the House: I ask you to defeat the motion on the floor right now and let me speak to it and let you know why.

You have to remember that the confidentiality laws are still in effect. When a person releases his medical records, the confidentiality law is in effect. If the information is leaked, that person has recourse through the courts to sue either the insurance company or the medical provider or whoever

it may be that leaks those records. I think that is the important point here. It's not that we are going to spread this information all over the place but whether or not that information is leaked, so I urge you to defeat the motion on the floor and have the courage to vote the way you did this morning.

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

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: I also encourage you to vote against the motion to indefinitely postpone.

I just want to make a few points. The first one is that you continue to control and you have control over where your medical records go. The Representative from Raymond said that there is a \$5,000 penalty if anybody breaches the confidentiality of anybody's medical records. It is a serious offense and it is a serious crime. You still have control over where you send your medical records.

I think there is a lot of misinformation being presented to you today and I think that the other important thing that you need to consider is that it is time that we start treating this very serious, infectious, communicable disease like any other infectious communicable disease that we have. In all the guidelines or whatever you want to call it that surrounds the whole HIV issue, I think doesn't do a service to the people who are infected with HIV. I think that that information is a very important part of your medical history, that it should not be deleted and that's what I think that you should be thinking about and this is the basis for this bill which was basically to address the medical seriousness of not including that very important part of your medical history when your records go to another medical professional or whoever is needing to have control of your records because they are taking care of you.

So I do ask you to stay with your vote and to vote against indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from the Passamaquoddy Tribe, Representative Soctomah.

Representative SOCTOMAH: Mr. Speaker, Men and Women of the House: I rise today to encourage you to vote in favor of indefinite postponement of L.D. 1002. The reason why I am requesting for your vote and encouragement in this matter is that, five years ago when I worked in Health Administration in one of our Indian House Service funded out-patient clinics on the reservation, the issue of HIV and AIDS came under the heading of Special Projects of which I was in charge of. We could not get a community response in any way, shape or form in relation to AIDS or HIV. We had to ask for technical assistance from one of our sister tribes out West to come into the community with the health providers but more so the health clinic personnel as a whole and all other tribal agencies, law enforcement, recreation, practically the whole community that we have — I don't want to say control over — but that we could release from work and request to be at this workshop. That was the only way we could get attendance, it almost had to be mandatory.

What we found out by going into the community, we had to go from the health clinic setting into the community setting and invite also the elderly people and what we found out in the community was the denial

factor and the lack of information in relation to AIDS and HIV — what is it, it won't affect me, it is in another country so I am not going to bother with it, because if I bother with it and get tested and start working with it, then I am going to have social ramifications of being labeled as having a disease. So, in order for you to get the people to have release of information, you have to diagnose them first. You have to get the population to respond, that's why confidentiality is a key factor in regard to HIV and AIDS. You have to get the people to be tested first and that is where the problem lies.

This disease is a killer disease. At best, we can hope to control it but in order to control it, you have to find out who has it but first you have to get the person to be willing to be tested before you can treat it, then worry about the release of information. That is why this disease is widespread.

As of April, 1993, the statistics in Maine show that there is approximately 1500 to 2500 people living with AIDS in the State of Maine today. These are diagnosed cases. Out of the HIV number, there are 390 diagnosed with AIDS, 200 in southern Maine, 134 in central Maine and 56 in northern Maine so don't think that this disease is not going to affect you.

We need to create an environment and make a continual effort of confidentiality so we can encourage people to go for testing without the repercussions that are negative, even bodily assault when we are living in fear, so I encourage you to vote to indefinitely postpone the bill and papers of L.D. 1002.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I am glad that we have a chance to discuss this a little bit more and I will be brief as I realize that we have gone over it pretty much.

I also agree that there are social stigmas attached with this but how you settle those issues is by voting for laws that will protect individuals and protect their rights, which I might remind you that I most certainly have consistently voted to do that.

You do not get a handle on this disease by treating it as a social issue, it is a disease. Other speakers that have spoken before me are absolutely correct, it affects all of us. We need to get this information to those folks, doctors, who can use the information, who can help track this information and get a handle on this disease.

This bill will not be a panacea to make everything right first thing in the morning, no question about it, I have no illusions about that. However, it is a step in the right direction. It changes the direction, it changes the attitude. As long as our priority in this state is to protect the privacy of those unfortunate folks who have contacted this disease and not to get a handle on this disease — you don't have to believe me when I make this statement but just mark my words — this disease will, as it is right now, continue to grow out of control. It will be pandemic and then we will as policy-makers in Maine and around this country and this world will be faced with some much more difficult issues of privacy than we are right now.

I do not support anyone discriminating against somebody who is unfortunate enough to have gotten a disease. My heart goes out to those people. In my heart, my intent is to change the attitude, to change

the priority of this so those people can get help and so those folks who may get this disease in the future can get some help when we get a handle on this disease. Right now, as long as we keep it in the shadows, we are not going to learn about it and it is going to continue to grow as it is doing as we speak. So, I urge you to vote against the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: Even more than the outcome of this vote, which I think is important for the reasons that have been stated particularly by Representative Sotomah, that we want people to be tested and if they are worried about confidentiality, they will not get tested. Even more than protecting confidentiality, what disturbs me in this debate is sort of a background sense I have from listening to people and talking to people outside here, that somehow people feel that either people in the medical profession are not currently protected by the laws adequately or that by giving medical information, people will be better protected. I would just like it to be very clear that, first of all, all hospitals in this state, all care facilities by now have to be in compliance with the blood borne passage and standards set up by OSHA, that you treat all blood as though it is potentially dangerous and treating all blood and related products that way is the only protection that is adequate for anybody.

Secondly, for medical care workers, if there is an exposure, our law now currently provides that if they do not get this information by voluntary disclosure, there is a mandatory disclosure available that, as far as anybody has been able to establish, is working, is fast and is efficient. So, that is not the reason that this law is important.

What is upsetting is when people believe that by knowing which person might now be infected with AIDS, they now know enough to be safe and that's when we are being counterproductive with these kinds of laws. If you don't treat everyone as a potential source of infection, then you are not safe. That's what these kinds of laws do when they remove the restrictions, they encourage people to be less protective of themselves with some people and more protective with others. As we know, the heterosexual transmission of this is increasing and it is increasing in the rural areas and nobody in the medical profession can afford to treat anybody as any more or less safe than anybody else.

I would urge you to support this motion for indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, Men and Women of the House: I think it is important that I give you a scenario of what might happen here. Let me give it to you from a medical care perspective and not an attorney's perspective.

If the entire medical record is not transferred from one physician to another physician, this person can come into your office and you do not have the entire medical record in front of you — now this person presents to you with a thrush infection, which probably many of you know, is a fungus infection in the mouth, which is one of the first signs that someone might have AIDS, you can symptomatically

treat this infection by just giving anti-fungal drugs and it will last forever and ever. But, you did this person a disservice because all you are doing is hiding the symptoms and not treating the cause. This is not good medical practice. If a physician has the entire medical record in front of him, they can get to the root cause and I think that that is important. Remember that when you vote on this bill.

Medical treatment, the sooner you intervene in an AIDS patient, the longer this person's outcome will be. You are not going to save their life, this is a deadly disease, we do not have a cure for this disease yet, but you can intervene at an earlier stage if you had the entire medical record in front of you.

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

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: I just want to remind you that there is still a process in the works where you can have HIV testing anonymously where you are given a number instead of a name so I think there is a whole play on this HIV testing and everybody is going to know. There is still a process whereby you are able to be tested anonymously so I think some of the debate over this is a little misguided.

I remind you to treat this as a public health issue that it is and not a social problem.

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

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for getting up a second time on this same issue. However, there are some virtues that can be accomplished but what we have to look at when we pass a law is, can it be abused and will it be abused? I see it very clearly and no one here has answered to the contrary, that if someone is injured in an industrial accident, they are going to sign a medical authorization. They have to by law, they have no choice. Do all the records then go to the insurance carrier and their employer? Should their employer have a right to know whether they have had an HIV test? Should their employer have a right to know whether in fact it is positive? They don't have a right to know that information. In an ordinary automobile accident case, when you sign your authorization, should the insurance company know whether you have had an HIV test? Should they be able to say to you, "you are not going to live as long as the next person because you are HIV positive" and use that as a defense in a case. I don't think so. The controls are not here in this legislation and I would urge you to support the pending motion.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of the Representative from Gardiner, Representative Treat, that L.D. 1002 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

## ROLL CALL NO. 135

YEA - Adams, Beam, Bowers, Brennan, Carleton, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Coles, Constantine, Cote, Daggett, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gray, Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hognlund, Holt, Hussey, Jacques, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Lemke,

Libby Jack, Libby James, Lipman, Melendy, Michael, Michaud, Mitchell, E.; Nadeau, Norton, Ott, Paradis, P.; Pfeiffer, Pinette, Poulin, Pouliot, Rand, Rotondi, Rowe, Rydell, Saint Onge, Saxl, Simonds, Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Winn, The Speaker.

**NAY** - Ahearne, Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Carr, Clark, Cloutier, Clukey, Cross, Dexter, DiPietro, Driscoll, Farnum, Farren, Foss, Gould, R. A.; Greenlaw, Joy, Kneeland, Kutasi, Lemont, Lindahl, Look, Lord, MacBride, Marshall, Murphy, Nash, O'Gara, Pendexter, Pendleton, Plourde, Plowman, Reed, G.; Reed, W.; Ricker, Robichaud, Ruhlin, Simoneau, Skoglund, Small, Stevens, A.; Strout, Tardy, Taylor, Townsend, G.; True, Tufts, Vigue, Young, Zirnkilton.

**ABSENT** - Aliberti, Clement, Coffman, Donnelly, Dore, Heino, Hillock, Jalbert, Larrivee, Marsh, Martin, H.; Mitchell, J.; Morrison, Nickerson, Oliver, Pineau, Richardson, Spear, Thompson, Whitcomb.

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

72 having voted in the affirmative and 59 in the negative with 20 being absent, L.D. 1002 and all its accompanying papers were indefinitely postponed. Sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act to Authorize Maine Financial Institutions and Credit Unions to Sell Annuities" (H.P. 778) (L.D. 1051) (C. "A" H-399) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Representative Joseph of Waterville requested a roll call.

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

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

The **SPEAKER**: The Chair recognizes the Representative from Mount Desert, Representative Zirnkilton.

Representative **ZIRNKILTON**: Mr. Speaker, Ladies and Gentlemen of the House: In my mind, there is still a couple of more issues which can be resolved by an amendment which I hope to bring forward so I hope that you will give me the opportunity to do that. So, if someone would move to table this until a little bit later, I would appreciate it very much.

On motion of Representative Gwadosky of Fairfield, tabled pending passage to be engrossed and later today assigned. (Roll Call Ordered)

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

**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Amend the Laws Governing Vending Machine Sales of Cigarettes" (H.P. 1060) (L.D. 1428)

Signed:

Senator: MARDEN of Kennebec

Representatives: CLEMENT of Clinton  
REED of Dexter  
LIBBY of Kennebunk  
WINN of Glenburn  
ST. ONGE of Greene  
THOMPSON of Lincoln  
HILLOCK of Gorham  
VIGUE of Winslow

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-430) on same Bill.

Signed:

Senators: CIANCHETTE of Somerset  
BUSTIN of Kennebec

Representatives: CAMERON of Rumford  
HOGLUND of Portland

Reports were read.

On motion of Representative Hoglund of Portland, the Minority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-430) 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-430) 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 Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-199) on Resolve, Authorizing the Conveyance of Certain Camp Lease Lots on Public Lands, the Exchange of Certain Rights-of-way for Fee Simple Interest in Land, the Conveyance of Certain Timber and Grass Rights through Release Deeds and the Extension of a Road Construction Use Permit Right-of-way for a Period of 99 Years (S.P. 495) (L.D. 1515) (Governor's Bill)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-199).

Report was read and accepted, the Resolve read once.

Committee Amendment "A" (S-199) was read by the Clerk and adopted.

Under suspension of the rules, the Resolve was read a second time, passed to be engrossed as amended by Committee Amendment "A" (S-199) in concurrence.

**CONSENT CALENDAR**

**First Day**

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

(S.P. 455) (L.D. 1422) Bill "An Act to Amend Certain Corporate Laws" Committee on Business Legislation reporting "Ought to Pass"

(S.P. 462) (L.D. 1454) Bill "An Act to Amend the Professional Surveyors Licensing Requirements" (EMERGENCY) Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-201)

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

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

**SENATE PAPERS**

**Divided Report**

Majority Report of the Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (S-159) on Bill "An Act to Minimize Electric Rates" (S.P. 307) (L.D. 940)

Signed:

Senators: VOSE of Washington  
CARPENTER of York

Representatives: TAYLOR of Cumberland  
MORRISON of Bangor  
CLARK of Millinocket  
AIKMAN of Poland  
DONNELLY of Presque Isle

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (S-160) on same Bill.

Signed:

Senator: CLEVELAND of Androscoggin

Representatives: HOLT of Bath  
ADAMS of Portland  
CASHMAN of Old Town  
COFFMAN of Old Town  
KONTOS of Windham

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-159)

Reports were read.

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

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

Representative CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: I have struggled for many months on L.D. 940. I agreed earlier on in the session to cosponsor this piece of legislation based upon a conversation I had with the prime sponsor. Senator Dutremble stated the intent and purpose of this bill and I thought it was a very good idea and a good direction for the state. I still feel very strongly about the sponsor's intent and the purpose of this bill is very honorable and is a good direction for the state.

The problem that I ran into while we worked this bill was we repeatedly came up with interpretations from Central Maine Power Company of the language in Section 2 of the bill. Section 2 of the bill is really the heart of Maine's energy policy. Over and over again, the stated intent of the sponsors and the intent that I agreed with was not what was coming out in publication by the Central Maine Power Company.

In a letter I have here from Mark Ishkanian, Director of Public Employee Communications in Central Maine Power Company to a customer in Old Orchard Beach, he says, "CMP is supporting legislation currently under consideration in Augusta, An Act to Minimize Electric Rates, which will change the pricing structures imposed by the Maine PUC to reflect today's current surplus of electricity and reinstate a declining block rate to give price breaks to higher usage of electricity. It is important for you all to know that declining block rates will result in higher electric bills for everyone in your district."

Also in the April of 1993 Maine Policy Review published by the Margaret Chase Smith Center, it says "Central Maine Power Company, Bangor-Hydro Electric and Maine Public Service have initiated a major coordinated effort to ship the direction of electric regulations. They have introduced L.D. 940." Neither of these things that I have just read to you were the intent of the sponsor so we worked for many months in committee to make sure that the sponsor's honorable intent would be ensured and that we would not be going down paths that would lead us backwards in Maine's energy future.

I went to our final work session ready to vote for the language in the Majority Report that is in front of us today. At that session, a Representative from Central Maine Power stated at the last minute that this language was needed so that the Maine PUC could deal with the problems today with electric pricing and not be looking 10 or 15 years down the road.

Our current energy policy does look 10 or 15 years down the road, we do have some problems with electric rates being high now due to the economy, due to surplus of energy and a number of other things that we have discussed many times in committee. I don't think we want to look at just today and stop

looking down the road and that is why I decided to go on the Minority "Ought to Pass" Report.

The Minority "Ought to Pass" Report simply removes this language that became so controversial in Section 2. It keeps the rest of the language in the bill and maintains the original intent of the bill but it wipes out this controversial language. That is the reason I went on the Minority Report and I would appreciate you voting against the Majority "Ought to Pass" Report.

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

Representative ADAMS: Mr. Speaker, Ladies and Gentlemen of the House: Rather at the last second I jump up to join my friend, the Representative from Old Town, Representative Cashman, in urging you to vote for the Minority point of view upon this bill. If your desk looks like mine, God forbid, long since you have lost any of the amendments that would help you feel your way through this margin of one vote in the utility bill so I will try to do what I can to give a very quick explanation of why and what and why I believe you should feel comfortable voting with the Minority point of view on this bill.

You do not have to understand very much about setting electric rates to understand everything about paying your electric bills. We all know that and all our constituents tell us that. That is what the crux of what this bill would have done.

L.D. 940, as originally presented to our committee, would have added a few words into Maine's Energy Policy Act. Those few words would have added an emphasis upon rates. First reading it may sound okay except that you have got to remember that it is a seesaw and it is best if you imagine it and remember it as a seesaw. If you push down rates for certain classes, then costs have nowhere to go but up on the other end. That gets a lot more complicated when you remember that you've got a lot of different categories of those rates but you only got one pool of people from whom the money comes, that is who is paying the costs, and that is all of us, you and I. It gets even worse for those who are on the bottom of the seesaw if you buy a heck of a lot of electricity and manage to convince the Public Utilities Commission that the more you buy, the less you pay. We haven't done that for about two decades in Maine and that is because the more of some very large purchasers bought and used, that meant the more the rest of us had to pay for it. That is what happens when you push down rates for some and the costs go up for all the others. That is pretty bad policy, that is also called "declining block rates" and that is why you haven't heard of it much in the last few years because the burden on the rest of us just got finally too much to bear. Rates are absolutely everything when you are setting electrical policy. Rates are what drives those bills that hop up on us and there is an absolute example I can give you very simply and clearly to tell you what happens to the rest of us when you monkey with rates.

Just two winters ago when the Public Utilities Commission decided that they were going to up the percentage rate by just a little bit, 8 percent, all of us suffered bills that went up by between 20 and 27 percent. That was the great scream you heard from your constituents at home, especially those who had the misfortune to be heating with electric space heat. In some cases, their bills went way over 27 percent, depending on which rate class they were

in.. It gets pretty complicated pretty quick, which means you don't mess with the language unless you really know what you are going to do.

Now, when the bill came to us, we were under the impression that it did one thing. The more material we kept getting, the more we, at least the minority of the committee, minority by one, were convinced that there was the possibility that it was going to do a lot of other things that we never intended and I don't think the prime sponsor ever intended either.

What really switched me around on it was some memo's that were brought to us from internally in the Central Maine Power Company which from letters sent over the signature of the President of Central Maine Power Company, Mr. Matthew Hunter, his Vice President, Mr. David Flannigan and his Customer Relations person, Mr. Mark Ishkanian, all embraced this bill specifically because it would give them the opportunity to return to what they called the declining block rate, meaning the big guys who use a heck of a lot of electricity would pay less and less and the little guys, who pretty much don't use anywhere near that amount, would have to pay more and more to bring the seesaw back to balance.

What the Minority Report did was pull all of that objectionable language out and keep what I think is a very good and balanced look at keeping that seesaw at balance. That is all our language did.

I think when you and I have to sit down and try to explain this to each other, if I can't use words in setting such policies that I can explain to you easily, that I can understand myself, then I worry because that is when the lawyers come marching in. When the lawyers sit down to debate electrical policy down at the Public Utilities Commission without you and I there, you and I know exactly what is going to happen to our bills. We don't have to remember any further back than those two winters that I mentioned. Therefore, I would encourage you to vote against adopting the Majority Report so that we could embrace the Minority Report which I can assure you can change the good things that you'd want to see without any of the dangerous freight that we could detect at the last moment. Then I would encourage you to vote for that bill that will be the Minority Report and I think you will add something good and strong and quite safe overall into the Maine Energy Policy Act. End of sermon, thank you very much.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I am kind of glad that we are dealing with the Majority Report, that's what we ought to be speaking on, not the Minority Report.

I wouldn't be standing here this evening if I thought this bill was to increase your rates. A lot of you have received a lot of phone calls this winter and a lot of you received a lot of letters from your constituents about higher rates. I want to tell you right now, if you lived in my house, we had one heck of a higher rate and that is why I am on the Majority Report that we are dealing with this evening.

This bill that I am talking about this evening is the lower electric rates for all of your constituents. That is what we want to do with the PUC. You have heard a little bit of a smoke screen coming from my good colleagues on the other side of the report and they talk about people marching in — well, talk about people marching in, then you have to look at groups like the Public Advocate who is very,



very much in favor of this bill, did all he could to make sure that the Majority Report got out, and worked with the committee very helpfully. The Chamber of Commerce knows that there is a major problem out there with electrical rates, they came to the committee and spoke very much in favor of the Majority Report. Another group that marched in was the AARP and a lot of those people spoke very much in favor of that bill. I have a number of letters from AARP and their group, they also marched in and they are not lawyers. The PUC Commissioners, the two that we had, marched in, very much in favor of this bill because of high electrical rates. The Utilities themselves, knowing that there is a major problem out there of high electrical rates, marched in, not lawyers. This is not a bill dealing with just Utilities, this is a bill for the consumer because they themselves are consumers of these electrical rates and the high bills.

I hope when you vote this evening, you vote with the Majority Report so you can send a message to your constituents to try to do something to help the problem out there.

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

Representative DONNELLY: Mr. Speaker, Ladies and Gentlemen of the House: It is kind of hard to follow an inspiring speech like Representative Clark just gave but I just wanted to give my wholehearted support to what he just said and also answer a couple of things that were said earlier.

It was mentioned earlier that this would encourage declining block rates which most people are familiar with in the days when Utilities were selling that baseboard electric heat and they were telling you the more you used, the cheaper it was going to be.

I just want to read a line from the Majority Report that is in front of us this evening, to quote my good friend from Millinocket. "Nothing in this Act" and this is part of the bill, not a Statement of Fact, "nothing in this Act may be construed to encourage or discourage the development or implementation of any particular rate design."

What it does is it sets rates at par with the other list of things that the Utilities Commission is supposed to first look at when they are considering how to design rates. That goes all the way through from load management techniques, rates that reflect marginal costs of services at different voltages, policies that encourage economic use of fuel and maximum efficient utilization of natural energy resources indigenous to the state and a litany of other things. What it does is we are trying to put rates at par with the other things that we ask them to look at first.

As you know, Representative Clark said that rates are the things that our constituents have been calling us on and rates are the things that the average citizen of this state are concerned about today. As an elected member of this body, someone elected by the citizens to represent them, I think it is a good bill.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: As difficult as it is to follow a stirring speech on incremental block rates, I assure you that it is even more hard to follow a stirring speech on incremental block rates delivered by

anybody from Presque Isle, but I will do the best I can.

In point of fact, the Public Advocate was very careful to make sure when he appeared before our committee that his concern about the bill that is now before us is pretty much what I have just cited. In fact, he says in his letter to us that he was in dead opposition to L.D. 940 because of the very concerns that I have tried to illustrate with the small seesaw example. In fact, the AARP came to us and in fact said from their letter to our committee they concur with the view of the Public Advocate, that the L.D. now before us did not serve a useful purpose because incremental block rates were being already considered under other possible ways of dealing with them down at the Public Utilities Commission.

Commissioner Nugent, when he did appear before our committee, pointed out that though the Commission, like all people, wished to make sure rates are kept low, there were other dockets now before them that in addition to this, might be a little bit better as a way of dealing with it. A docket down at the Utilities Commission is like a law case, it is what a law case is called down there. There is now a docket down there, 92315, that in fact, if approved in the form that it now is, would have exactly that effect of establishing very cheap electricity for those people who use a very great deal of it, meaning large factories, etcetera, at the expense of raising the bills that you and I pay who use very little electricity, in fact, as much of a factor of 200 or 300 percent, doubling or tripling your bills should they adopt it.

All the Minority Report does is pull the teeth out of that sting, lets the case go on as it will or will not see fit to do down at the Public Utilities Commission, takes the worst of the language that the Public Advocate and that the AARP and others all objected to in L.D. 940, takes it out, gives us something that is much more level and even. And, just as my friend from Presque Isle says, gives us another good little item to put at the bottom of the list of things the Public Utilities Commission has to consider.

I am sure you have learned more about declining block rates than you have ever wished to hear in your life. That is the end of the second sermon and I thank you very much. I urge you to support the Minority position on L.D. 940 and to reject the adoption of the Majority Report before us at the moment.

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

Representative KONTOS: Mr. Speaker, Ladies and Gentlemen of the House: Some of you may know this and others of you may not but in my other life, I teach English, composition mostly, so when we get to policy statements of this type in the Utilities Committee, I think it may parallel closely to what happens in Judiciary when you need to look at the language and try to make a determination of what the impact of that language will be.

As you have heard from other speakers, the Minority and the Majority Reports are both "Ought to Pass" and they both have language that adds another incremental rate design option for the PUC to use with utilities and the difference is in the policy statement, which is part of the Rate Reform Act.

The Majority Report uses this language to the extent that this will produce overall electric costs

and here is the new language, "or electric rates or both, providing equivalent consideration if given to the goals of reducing costs and reducing rates." That is the Majority Report which you are being asked to vote on. Given that language and because I am still relatively new to these issues, I asked what that meant and the Commission can't tell us. We asked the Public Advocate, "What does this mean in terms of what will the PUC do with this new information policy?" He said, "We are not sure." The Utilities insisted that this language was benign — their word — given that, and after probably 20 hours of committee work on that language, I proposed that we delete it completely. At that point, the Utility lobbyists in the room jumped to their feet and said, "Oh no, you can't do that" which made those of us on the Minority Report extremely skeptical, that the language that they said to us was benign actually served a very important purpose for the Utilities. The Commission says that they don't know what it means, they don't know what they will do with it.

Given that, and my background as an English teacher, I got nervous. I have been very well conditioned to look at language and interpret it, wonder what that means, wonder what the implications are. The language in the Minority Report simply says, "In making any determination under this chapter, the Commission shall consider the impact on rates." They do that already. What we did was write in some concessionary language hoping to at least bring attention to the issue that the bill was designed to discuss.

This was a perplexing issue for us in committee and I am sympathetic to the plight that faces you trying to decode what this bill means. I hope you will trust those of us on the Minority Report and reject the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Taylor.  
Representative TAYLOR: Mr. Speaker, Men and Women of the House: For many years we have watched our electric power rates rise. This increase has been disproportionate from general inflation. We undertook collectively a program to conserve energy to avoid the need for new generating capacity such as Seabrook, Hydro-Quebec and many others. We were very successful with that conservation program, we used qualified facilities and co-generation and conservation itself but at a cost to present day ratepayers.

The Utility business is a volume business. Many of the fixed costs remain the same and when you conserve as we have been doing these past few years, not to knock conservation, but we have increased the unit cost. It is time to give short-term rates the same consideration as we have been giving long-term costs and that is what L.D. 940 is all about. The Majority Report will do this.

This is not a Utility bill, all of your committees know the impact of lobbyists and I think the Utilities Committee is just as well able to sort out the input of the lobbyists as any other committee in the House. They are there, they are a resource, we evaluate what they tell us and I don't think the Utility Committee jumps through their hoop.

This will allow the PUC to balance their rate-making between the long-term and the short-term, that's what we need. It still requires concern for the environment but will provide a more constructive

approach to rate-making. Please support the Majority "Ought to Pass" Report. I would request a roll call.

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

Representative HEESCHEN: Mr. Speaker, Ladies and Gentlemen of the House: I think it is really misleading to suggest that the vast majority of our constituents will see their residential rates go down if we pass the Majority Report. Someone, and I believe it is the Utilities, is pulling a fair amount of wool over people's eyes here.

I want to give you a couple of the details of the proposed rate structure which Representative Adams alluded to before, CMP testimony on the 17th of February of this year in PUC Docket 92-315, Exhibit Anderson-5. You have to consume at least 1500 kilowatt-hours per month in order for your rates not actually to change at all, but anybody who uses less than 1500 kilowatt-hours per month, will see their bills go up. Maybe the rates will go down but their bills are going to go up. Now, 1500 kilowatt-hours a month is approximately \$180 a month electric bill. If your bill runs up to that or less than that, you will be paying more. The average household uses somewhere around 700 kilowatt-hours a month so your average ratepayer, your average constituent, is going to be paying far more. If you are using only 200 kilowatt-hours a month, your bill will go from \$20.35 to \$53.00.

I think the focus on rates as an objective is far too narrow, you really have to look further, you have to look at total bills. There is a number of other routes to achieve this goal.

I have spent time down at the PUC involved as an intervenor in different rate cases and other cases and I have watched this process. I have watched as the Utilities have tried to shift the argument and blame conservation, the small power producers and so forth for all the woes that we have today. I think that is a bit of blame-shifting, I think to go with the Majority Report here would be ratifying that blame-shifting and I think it would be a great disservice to the vast majority of our constituents who will see significant bill increases.

I urge you to defeat the Majority Report so we may go on to adopt the Minority Report.

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

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

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

Representative HOLT: Mr. Speaker, Men and Women of the House: I do not have a stirring speech for you. I want you to know, most particularly, that my decision to go with the Minority Report had only to do with my feelings that what was intended by the prime sponsor of this bill was not going to come about through the Majority Report.

I think it is important that we understand the difference between bills and rates, really there aren't any ratepayers, there are only bill payers. It isn't such a terrible thing if rates go up a bit or even a lot if your bills go down more and that is the basis of this whole question.

I would like to quote to you from an expert in the field of Utilities and energy prices and energy in general whom I have known since he was a baby. He has been working in this field for over a decade now and knows a great deal about it. His name is Ralph Cavanaugh of the Natural Resources Defense Council and he says that "it is energy bills, not rates, that ultimately determine both consumer satisfaction and the Utilities competitive success." That is what we want, competitive success and economic well-being for the State of Maine. Right? "Provided at least," he goes on to say, "that the benefits of cost effective conservation are equally equitably shared. Lower bills are a more than complete antidote for higher rates."

Now, we will get out of this time of difficulty paying our electric bills as the recession recedes but the philosophy embodied in the Majority Report I am afraid very much drives us toward the use of more oil and away from renewable and energy efficiency. Those things are the things people tell us they want. Those things will give us the edge in competitiveness in economy in the state and the nation for the future. That is why, regrettably, I felt it necessary to move away from the philosophy provided in the Majority Report.

Finally I would like to say that I remember quite well that a Public Utilities Commissioner, who didn't march in, he was just sitting there and he said he felt that the PUC had enough flexibility now to deal with this question in a fair way to billpayers and the Utilities as well. So, I urge you to vote no on accepting the Majority "Ought to Pass" Report.

I also want to remind you that a former President head of the Central Maine Power Company is certainly taking this direction in his new utility. It is a very forward looking direction. Thank you and I hope you will vote no on the pending motion.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. It seems like the prime sponsor's name on this bill has been used in vain a number of times in this debate this evening. He can't be here to debate it. I don't think the prime sponsor is looking at the Utilities, he is looking at the best interest of all of the consumers here in the State of Maine as well as the Utilities. The Utilities know that they can't deal with higher rates anymore as they have in the past.

I take it as a part effort on behalf of the prime sponsor to bring this bill forward. As I mentioned earlier in my speech, there are a number of organizations, groups and whatever who came forth in support of this bill. We are all looking after the trust of everyone involved and I have to put that forth to the people who come to me in my committee, to trust that they are going to give me the correct information to make the right decision for everybody in this state.

I hope when you vote tonight that you vote for the Majority Report and we move it on forth.

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

YEA - Ahearne, Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bruno, Cameron, Campbell, Caron, Carr, Carroll, Clark, Clukey, Cross, Dexter, DiPietro, Donnelly, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnum, Farren, Foss, Gould, R. A.; Greenlaw, Gwadosky, Hussey, Joy, Kerr, Ketterer, Kneeland, Kutasi, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Murphy, Nash, Norton, O'Gara, Ott, Paradis, P.; Pendexter, Pendleton, Plourde, Plowman, Pouliot, Reed, G.; Reed, W.; Robichaud, Simoneau, Stevens, A.; Strout, Sullivan, Tardy, Taylor, Townsend, G.; Tracy, True, Tufts, Vigue, Young, Zirkilton.

NAY - Adams, Aliberti, Beam, Bowers, Brennan, Cashman, Chase, Chonko, Cloutier, Coles, Constantine, Cote, Daggett, Farnsworth, Fitzpatrick, Gamache, Gean, Gray, Hale, Hatch, Heeschen, Hichborn, Hoglund, Holt, Johnson, Kilkelly, Kontos, Lemke, Melendy, Michael, Michaud, Mitchell, E.; Nadeau, Pfeiffer, Pinette, Rand, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Stevens, K.; Swazey, Townsend, E.; Townsend, L.; Treat, Walker, Wentworth, Winn.

ABSENT - Birney, Carleton, Cathcart, Clement, Coffman, Dore, Heino, Hillock, Jacques, Jalbert, Joseph, Larrivee, Marsh, Martin, H.; Mitchell, J.; Morrison, Nickerson, Oliver, Pineau, Poulin, Richardson, Small, Spear, Thompson, Whitcomb, The Speaker.

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

72 having voted in the affirmative and 53 in the negative with 26 being absent, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "(S-159) was read by the Clerk and adopted and the bill assigned for second reading Wednesday, May 26, 1993.

The following was taken up out of order by unanimous consent:

Reference is made to (H.P. 898) (L.D. 1213) Bill "An Act Concerning Limits on Security Deposits"

In reference to the action of the House on May 24, 1993, whereby it Insisted and Asked for a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative DAGGETT of Augusta  
Representative POULIN of Oakland  
Representative STEVENS of Sabattus

The following was taken up out of order by unanimous consent:

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

In reference to the action of the House on May 24, 1993, whereby it Insisted and Asked for a Committee of Conference, the Chair appoints the

following members on the part of the House as Conferees:

Representative FAIRCLOTH of Bangor  
 Representative JOSEPH of Waterville  
 Representative YOUNG of Limestone

The Chair laid before the House the following matter: An Act Regarding Missing Children (H.P. 425) (L.D. 544) (S. "A" S-167 to C. "A" H-262) (Emergency) 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. 109 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

On motion of Representative Rowe of Portland, the House reconsidered its action whereby Bill "An Act to Amend the Laws Governing Vending Machine Sales of Cigarettes" (H.P. 1060) (L.D. 1428) was passed to be engrossed.

The same Representative offered House Amendment "A" (H-427) and moved its adoption.

House Amendment "A" (H-427) was read by the Clerk.  
 The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I request a Division and also ask that we not accept the motion on the floor.

The SPEAKER: The Chair will order a vote. The pending motion before the House is adoption of House Amendment "A" (H-427). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.  
 70 having voted in the affirmative and 28 in the negative, House Amendment "A" (H-427) was adopted.

Subsequently, the bill was passed to be engrossed as amended House Amendment "A" (H-427) and sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act to Improve the Unemployment Collection Process for Employer Contributions" (S.P. 264) (L.D. 802) (C. "A" S-156) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Representative Aikman of Poland, the House reconsidered its action whereby Committee Amendment "A" (S-156) was adopted.

On further motion of the same Representative, the House reconsidered its action whereby House Amendment "A" (H-421) to Committee Amendment "A" (S-156) was adopted.

On further motion of the same Representative, House Amendment "A" (H-421) was indefinitely postponed.

The same Representative offered House Amendment "B" (H-432) to Committee Amendment "A" (S-156) and

moved its adoption.

House Amendment "B" (H-432) to Committee Amendment "A" (S-156) was read by the Clerk.

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

Representative AIKMAN: Mr. Speaker, Ladies and Gentlemen of the House: This amendment prohibits the Department of Labor from denying, suspending or revoking a license if there is a dispute as to the amount owed until all appeals are exhausted. This amendment also provides for a fact-finding interview to determine a reasonable payment agreement.

On motion of Representative Simoneau of Thomaston, tabled pending adoption of House Amendment "B" (H-432) to Committee Amendment "A" (S-156) and specially assigned for Wednesday, May 26, 1993.

The Chair laid before the House the following matter: An Act to Amend the Occupational Disease Law (S.P. 216) (L.D. 687) (C. "A" S-92 and H. "A" H-365) which was tabled earlier in the day and later today assigned pending passage to be engrossed as amended by Committee Amendment "A" (S-92) as amended by House Amendment "A" (H-419) thereto and House Amendment "A" (H-365).

On motion of Representative Ruhlin of Brewer, the House reconsidered its action whereby Committee Amendment "A" (S-92) was adopted.

On further motion of the same Representative, the House reconsidered its action whereby House Amendment "A" (H-419) to Committee Amendment "A" (S-92) was adopted.

On further motion of the same Representative, House Amendment "A" (H-419) was indefinitely postponed.

Subsequently, Committee Amendment "A" (S-92) was adopted.

Representative Libby of Buxton requested a roll call.

Subsequently, Representative Libby of Buxton withdrew his request for a roll call.

Representative Libby of Buxton moved that L.D. 687 and all its accompanying papers be indefinitely postponed.

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

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to point out to the ladies and gentlemen of the House at this late hour just to kind of remind you of what you did the other day, you recognized that another branch of government, co-equal though it may be, took the status quo that we were attempting to establish through the Workers' Comp reform of 1992 and through a court decision allowed people not to receive benefits that their employers are already paying for.

This bill attempts to recognize the very delicate balance that existed on the first week of October of 1992 and reestablished that so that we can have peace and harmony for a year or two in the Workers' Compensation System. That's what that whole discussion was about, that was what that whole vote was about and this is the same bill back to you. I know you have covered a lot of bills since then but that was the point that we were discussing the other day that this House voted to accept, that they did in fact want to keep that delicate balance between

employer and employee.

I hope you will so vote again today and when you do that that you will keep in mind that that decision said that if you have an occupational disease such as asbestosis and so forth or it could be inhalation of toxic substances or whatever it is, that in fact you will not get, the way insurances are presently written, any coverage on your personal insurance. When you go to the medical facility, the first thing they are going to ask you is, is that illness work-related? If it is, every disability policy that I know of and every medical insurance policy that I know of will not pay for it. They expect Workers' Comp to pay for it so you lose that coverage. That means, from that court decision, those people who are in that condition, asbestosis and other chronic illnesses brought about through workplace conditions, are left uncovered by any type of insurance so please keep that in mind when you vote tonight.

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

Representative AIKMAN: Mr. Speaker, Ladies and Gentlemen of the House: Remember this morning I stated on the floor on this issue that this bill, I feel, makes a substantive and costly change to the Workers' Compensation law which require employers to pay medical benefits to claimants who are not currently disabled by the occupational disease.

The Maine Workers' Compensation System needs time to stabilize and I urge you to vote for the pending motion.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Libby.

Representative LIBBY: Mr. Speaker, Ladies and Gentlemen of the House: I just want to point something out real quick here and I think it needs to be said.

A few days ago, we had two consecutive Workers' Comp bills. On the second bill, everybody brought up the fact that the Workers' Comp Board says, "Don't make a significant change to the Workers' Compensation System." Yet, we voted for this, this is a significant change, it is a health care issue, it is not a Workers' Comp issue. I cannot understand why we voted for one significant change in the Workers' Comp Act of 1992 and then we turned around and used that exact same reasoning to kill a separate bill. I am really having trouble negotiating this in my mind. I hope you can help me but it is my opinion that this is a very expensive bill, it is going to hurt the Workers' Comp System, it is going to raise premiums, there's no question about that, this is no time to be doing this.

I wanted to make sure that I had my voice heard and my protest known, I have done that, so I will sit down and listen to the rest of the verbage and hope you consider that, please.

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.

During the public hearings or workshop, did many come down and ask you not to support this bill? Was there any objection?

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

The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Men and

Women of the House: I thank the good Representative from Rome for his question. In fact they did not, they have not taken a position at this point nor do they prefer to take a position at this point on this bill nor have they on any other benefit-related bill appearing before the Labor Committee.

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

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to make a clarification. On the previous bill, they did make a point and asked us not to tinker with this and they do not apparently say anything here so I would urge you not to indefinitely postpone this bill.

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

Representative CAMERON: Mr. Speaker, Men and Women of the House: I would like to respond to my colleague from Buxton. His comment is well taken as far as making major changes in the Workers' Comp bill and for the most part I support that position. But, I would submit that the major change was made by the courts and we are only trying to go back to the original position. I do not consider this a major change.

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

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House: I want to remind you that the workers who are affected by this are still working. They are still gainfully employed. The point is, however, that they do need some medications, they need to visit doctors and so forth because they have this disease. As we have heard, their health insurance programs do not cover this as soon as it is learned that it is an occupational disease. Therefore, they do not have coverage. The only time the coverage comes in now is when they actually become disabled and can no longer work, then Workers' Comp kicks in.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: You have heard today and you heard the other day the argument that the workers themselves will have to pick up these costs if they are not covered under the Workers' Comp carrier.

Section 222 of the Act provides that claims made by an employee for a Workers' Comp claim and denied as not yet compensable because they have not reached a compensable level are covered under their insurance policy, their regular medical insurance policy. They may file a claim with the insurance company which the insurance company is bound to pay, bound by our Act to pay. The insurance company then places a lien on any Workers' Comp action against any benefits, medical or otherwise, that will be accrued to the worker once the level of the disability reaches the compensable state.

So, please don't be under the misconception that these workers are picking up the tab themselves because their insurance company has denied them under the health care plan. The health care plan may not deny them if they have been found not to be in a compensable level by the Workers' Comp Commission.

The SPEAKER: The Chair recognizes the Representative from China, Representative Chase.

Representative CHASE: Mr. Speaker, Men and Women of the House: Good colleagues of the House have described this Act to be one that will make a

substantive change to the Workers' Comp law and that will be costly. I beg to disagree with both of these statements. There will be no substantive change in our Comp laws because the decisions are being made to find that occupational diseases are compensable under our Workers' Comp legislation until October of 1992, until the Manzo decision that Representative Ruhlin described to you previously. There will be no cost increases because these decisions have been made in favor of the injured employee and the costs have already been built into our rates.

You have just heard that private insurance should and will pick up the cost of occupational diseases contracted by employees through their workplaces. I also beg to differ with that. One of our members who is presently not here, Representative Clement, suffers from an occupational disease. He contracted this occupational disease, as he has told you himself in this hall, at work — it has been deemed an occupational disease, he continues to work, it is not compensable by his private health insurance because it is a work-related injury and has been deemed to be a work-related injury.

I am sorry to speak so forcefully, I feel strongly about this issue and I also think you should know that it is not compensable by a private insurance.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Libby of Buxton that L.D. 687 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

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 Libby of Buxton that L.D. 687 and all accompanying papers be indefinitely postponed.

The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Mr. Speaker, pursuant to House Rule 7, I wish to pair my vote with Representative Clement of Clinton. If he were present and voting, he would be voting nay; I would be voting yea.

The SPEAKER: The Chair recognizes the Representative from Sedgwick, Representative Gray.

Representative GRAY: Mr. Speaker, pursuant to House Rule 7, I wish to pair my vote with Representative Cathcart of Orono. If she were present and voting, she would be voting nay; I would be voting yea.

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

Representative CAMPBELL: Mr. Speaker, pursuant to House Rule 7, I wish to pair my vote with Representative Joseph of Waterville. If she were present and voting, she would be voting nay; I would be voting yea.

The SPEAKER: The Chair recognizes the

Representative from Kingfield, Representative Dexter.

Representative DEXTER: Mr. Speaker, pursuant to House Rule 7, I wish to pair my vote with Representative Coffman of Old Town. If he were present and voting, he would be voting nay; I would be voting yea.

The SPEAKER: The pending question before the House is the motion of Representative Libby of Buxton that L.D. 687 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 137

YEA - Aikman, Anderson, Ault, Bailey, R.; Barth, Bennett, Bruno, Carleton, Carr, Clukey, Donnelly, Farnum, Farren, Foss, Joy, Kneeland, Kutasi, Libby, James, Lindahl, Lipman, Lord, MacBride, Marshall, Norton, Ott, Pendexter, Plowman, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Stevens, A.; Taylor, True, Tufts, Zirkilton.

NAY - Adams, Ahearne, Aliberti, Bailey, H.; Beam, Bowers, Brennan, Cameron, Caron, Carroll, Cashman, Chonko, Clark, Cloutier, Coles, Constantine, Cote, Cross, Daggett, DiPietro, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Greenlaw, Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hoglund, Hussey, Johnson, Kerr, Ketterer, Kilkelly, Kontos, Lemke, Lemont, Look, Melendy, Michael, Michaud, Mitchell, E.; Nadeau, Nash, O'Gara, Paradis, P.; Pendleton, Plourde, Pouliot, Rand, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Stevens, K.; Strout, Sullivan, Swazey, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Winn, Young, The Speaker.

ABSENT - Birney, Chase, Dore, Heino, Hillock, Holt, Jacques, Jalbert, Larrivee, Libby Jack, Marsh, Martin, H.; Mitchell, J.; Morrison, Murphy, Nickerson, Oliver, Pfeiffer, Pineau, Pinette, Poulin, Richardson, Spear, Thompson, Whitcomb.

PAIRED - Vigue (Yea)/ Clement (Nay); Gray (Yea)/ Cathcart (Nay); Campbell (Yea)/ Joseph (Nay); Dexter (Yea)/ Coffman (Nay).

Yes, 37; No, 81; Absent, 25; Paired, 8; Excused, 0.

37 having voted in the affirmative and 81 in the negative with 25 being absent and 8 having paired, the motion to indefinitely postpone did not prevail.

Subsequently, L.D. 682 was passed to be enacted, signed by the Speaker and sent to the Senate.

(At Ease)

The House was called to order by the Speaker.

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) and 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 of Portland that the House accept the Majority "Ought to Pass" as amended Report.

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

Representative MELENDY: Mr. Speaker, Men and Women of the House: I move that this bill and all accompanying papers be indefinitely postponed.

One-stop shopping for licenses and permits is a good thing and something that our committee has been working towards. This bill goes contrary to what has been worked on for a couple of years and what is hoped for by the Economic Growth Council, the council that so many of you were a part of.

Many of us want to have a one-stop for licenses and permits for our businesses. This bill will not do that and will only further confuse the process by not having only one stop, instead it will add an additional stop. It will add a municipal stop if they choose to do it. They can choose not to do it, then DECD would have to step in to do it for the municipalities that were not going to. The bill also excludes several departments of government from being part of this, so now businesses would have to go to the municipality, if the municipality had chosen to do it, to DECD or to the individual departments. How will business people know where to begin to start this process?

This bill would also add an additional cost to business people by having the communities charge an extra \$4 per permit or license, up to a total of \$40. The bill directs the Department of Economic Development to train municipal people to provide the licenses and inspections for up to 240 different licenses and permits. There is no way that the department could possibly do this without additional staff over and above what this bill proposes. The computer program would be needed before they could even help the municipalities but this committee has not provided for this equipment.

It would also make much more sense to weed out unnecessary or outdated licenses and permits that are needed before we start this program. DECD is currently working with different departments of state government to see which of these that we could weed out. Does it make sense for us to set up a department to fail? If we can't help business people better than this proposes to do, we shouldn't help them at all.

Our committee has asked to have a like bill held over in our committee so that this can be set up properly with one-stop shopping that will work consistently for all businesses, large and small. We can't afford to do this piecemeal. Our business people deserve better. I was always taught that if it is broke, you fix it, you don't splinter it even more as this proposes to do.

I urge you to vote for the indefinite postponement of this bill and all its accompanying papers.

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

Representative HOGGLUND: Mr. Speaker, Men and Women of the House: I would like you to vote no on this indefinite postponement. I think I explained it — I don't want to go into great detail because I know it is late but what this is is just to allow municipalities to have a one-stop licensing. It is just for retail consumers. If a small store of 10,000 square feet or under wants to go get a permit

to open up a small restaurant, small grocery store or small pizza parlor or whatever, something small, 10,000 square feet or under, they can go to their city hall or town, if the town opts to do it. That is the key, if your town wants to do it. You can go to the town, fill out a check list and they will get all the permits for you. The Maine Chamber of Commerce, the Maine Grocers Association, the Maine Auto Dealers, the Maine Independent Grocers, everyone is supporting this. It would be the best thing for small business right now. It will work like the boat tax, you go in get your excise tax, your registration and tabs, all in a one-stop shot.

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

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House: The Department of Economic and Community Development has done its study and completed an inventory of the number of permits and licenses that are required. There are 548 permits and licenses. Of that number, 270, which is about 50 percent, are directly related to doing business.

What we are looking at is a bill that deals with retail establishments of 10,000 square feet or less.

Now, think of a corner store, it doesn't have to be on the corner but we usually term them that way, a small store, it sells food, sometimes will have flowers outside to sell, sometimes will sell hardware, it could be that this business requires three or four licenses or it could be more than that.

The DECD and our committee is not opposed to the one-stop shopping for permits and licenses, rather we are fully in unison with the concept of trying to make the permitting and licensing process easier for businesses. Presently, the DECD is eliciting support of their sister agencies to help them to do this.

What this bill does is not just take one step, it really leaps a number of light years. If we are to take this leap, then the direction given to the Department of Economic and Community Development would require resources and authority to issue and collect the forms and the money for the licenses.

If you look through your amendment, you will see that the committee then would have to send back 50 percent of that money. We have so many agencies involved.

The key to one-stop licenses is computerization and then remote access so that your municipality could or your businessman could reach directly through a modem to the state. So, what we are looking for is a statewide facilitation for small businesses by providing the one-stop shopping in one location.

I hope you will support the indefinite postponement of L.D. 512.

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

Representative MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: I think the key to understanding this bill is in some remarks that a previous speaker made in which they said that DECD has been working on this for a couple of years and they hope to accomplish something in the domain of one-stop marketing.

The bottom line is that the DECD would like to work on this for a couple of more years and I don't know how many more years after that. The key is that they have been working on it for a couple of years and now it is up to the legislature to decide if the bureaucracy works for us or we work for the

bureaucracy. Now, I don't need to enroll you in the need for reducing the amount of red tape up here, we have all heard it in our door-to-door campaigns, we have heard it from the businesses and now is our opportunity.

One of the cosponsors who signed onto this bill, when I sent the note around at the beginning of the year, listed all the bills I was sponsoring and invited people to sign on, a lot of you signed onto the different bills that you liked. One cosponsor I think summed it up perfect. She said, "This is the best bill I have ever seen, make sure when that comes up, I get my name on this thing."

I wish it was my idea but I can't say it was my idea, the idea came from a former member of this body who passed into law, who was the sponsor in 1974 of the law that allowed cities and towns to do motor vehicle registrations at the local level, at their option. Many of you are familiar with the idea of going to your local town and registering your automobiles. Now, not all towns do that even today, only the ones that want to. I've got to tell you something, back in 1974 when that legislator put that bill in, there was resistance from the bureaucracy. The Secretary of State's Office said back then, "We can't do this, it is too complicated." Lin Ross who was a good friend of mine, who ran Motor Vehicle and Mark Gartley, who is also a good friend of mine, said the towns can't handle this and it is going to cost us a ton of money. Well, I will tell you, that is the nature of the bureaucracy, that is the nature of the beast. It is up to us to make sure that we run them and they don't run us.

I want to read you a letter from the current Secretary of State commenting on that motor vehicle bill which gave the option to the towns to register motor vehicles locally. I will pluck a few things out of this letter from Bill Diamond, Secretary of State. He says, "Dear Jim: This letter will provide you with an update on the municipal motor vehicle registration program which was implemented several years ago allowing citizens to register their vehicles at the local level, town offices. It has proven to be a tremendous success for both the department and the public. Specifically, the municipal registration program saves the State of Maine a minimum of \$2.4 million a year." \$2.4 million a year. "It also provides a great service to the public. Oftentimes laws which are passed have little or no direct effect on the lives of our citizens. However, in this case, the municipal vehicle registration law, your foresight and vision have resulted in a significant ongoing savings to the state and instituted a timesaving convenience to all Maine citizens."

If we save \$2.5 million a year just from creating the option for the towns and cities to register motor vehicles, I can only imagine what type of money we will save over the next ten years by allowing a local option on this bill and that is the key to it.

Just so you know real quickly — what it will look like is this — say you are a local Mom and Pop pizza store, get tired of running around to this agency for a beer and wine permit and that agency for a permit for pizza and this agency for lottery tickets, so on and so on and so on, they take the form and check off everything they want. Then, over here, they add up the money they owe and half of it gets sent in January 1st and half of it gets sent in July 1st, then they send it off to DECD and DECD is

responsible for coordinating the permits for notifying all the permitting agencies so that they go and get the job done and the storeowner doesn't have to bother with it anymore.

We also said that the towns have, at their option, the ability to do the licensing and inspection at the local level if they want to. In addition, the storeowner, no matter what his town does or her town does, still has the option of going back the old way if they want to. If they want to run around to ten different agencies, they can. We specified that they are not under any affirmative obligation to go with the one-step licensing program. So, it is totally optional, optional for the town, optional for the participant.

The beauty of this is in returning it to the towns, that is where the bureaucracy is whittled down a little bit and the control goes back to the cities. We have to get away from this idea that all problems of government are solved up in Augusta, all little details of everybody's problems can be handled up here, that is a bankrupt idea. We need to begin to return that back to the cities.

The other bill that is in the other committee, Housing and Economic Committee, is L.D. 1385. There are three sponsors on that bill, Representative Winn, Representative Michael and Senator Bustin, all three of those people are asking you to support this bill. We didn't put this other bill in to that committee so we could have that one killed, we just put it in to expand the idea to allow DECD to continue with their thing, their project. I think it would be a good idea to computerize the state, I am told it will cost \$1.9 million. It seems awfully high to me, but it is going to cost some money. Our bill today will cost us nothing because in the bill it specifies that monies are to be apportioned from the agencies that currently are spending their money on permitting to be apportioned to DECD. There is technically a fiscal note on it but it is a revenue neutral process.

Like I said, I have to agree with one of the cosponsors, this is one of the best bills I have ever seen. I wish I had thought of it, I didn't, but I urge you obviously to pass this thing into law so we can begin to take the lead here in Augusta and return the authority of licensing back to the towns, get them in on it and begin to reduce the cost of state government.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I sit on the Business Legislation Committee and I am part of the 11 to 1 Majority "Ought to Pass" Report on this particular bill. I would urge you to vote against the indefinite postponement of the bill and all its accompanying papers.

Let me tell you the reason for this, we have been trying to improve the climate for businesses to conduct business and run it without government interference. A lot of this licensing comes into that play, it is interference, we are requiring them to do different things. This at least would allow them to go to one location and get the necessary licenses to conduct their business.

I would urge you to vote against the indefinite postponement of this bill and then support the Majority "Ought to Pass," which is an 11 to 1 Majority Report.

I would ask that the Committee Report be read.



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

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

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I didn't think I would be talking here this late this evening, I didn't even want to get up on this issue. I just want to give you a little brief history and tell you why I think it is a good idea.

Two years ago, I forgot to renew my agriculture license so when it came due this year, I had to pay for the last two years, last year and this present year. By having this system in place, I am going to be able to honor all my licenses at one time. And, the nicest part about it, which I didn't even know that existed, was that I don't have to come up with all that money at one time. Now I find out I can make it in two payments. I think it is a good idea, I appreciate your time and I am sorry it is so late.

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

Representative TRUE: Mr. Speaker, Men and Women of the House: I would like to have you think of the many bills that we have had on the floor and how much harm that we perhaps have done to the towns in taking money away. It seems to me that this bill gives us an opportunity to give some of that money back.

I am not going to quote statistical information or anything like that but I do think because this has been worked a couple of years by another committee that maybe it is time that we did give an opportunity to do something different. I have heard someone say that it needs to be worked on because it isn't enough but sometimes it is best in times of need, instead of a whole loaf to have half a loaf. I think this is a good bill in which we can perhaps give money back to the towns and help the small businesses.

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

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House: If you look at the information on the Committee Amendment "A", you will find that so far as the municipalities, first of all the process, "Upon application by the municipal officers of a municipality, the Director shall appoint the municipality as a centralized permitting agent to provide all permits for retail businesses and provide inspections for retail businesses with less than 10,000 square feet of retail space. Retail businesses shall pay the municipality an additional fee of \$4.00 for each permit included in the consolidated application up to a limit of \$40.00. Municipalities may retain one-half of all fees collected for permits requiring inspections. The remaining one-half of those permit fees and all fees for permits not requiring inspection must be remitted to the Department, which shall remit the fee to the issuing agency. A municipality with less than 4,000 population may contract with an appointed municipality for centralized permitting." That is one point.

The idea of the municipality having to have an inspector, all right? I believe there is a cost to that.

Another part of this under funding says, "To fund the programs or procedures provided for in Subsection 3, 4 and 5, each state agency shall transfer to the Department from funds appropriated for that agency's

permitting programs its percentage share of the cost of the Department's program which must be equal to the agency's percentage share of the total permitting fees collected by all state agencies."

Also, if you look at the fiscal note that has been attached, I would challenge the idea of \$33,936 in the first year, 1993-94. It has not taken into consideration the fact that there has to be printing of all new forms as well as retaining the old forms if businesses are going to be able to go back to the original issuing agencies. Therefore, those forms will have to be — DECD will have to be authorized to print new forms, to also disseminate them, also to collect them as well as to bring in the money. It also provides for the appropriation of funds for one Development Project Officer position, one Clerk Typist III position and then general operating expenses required to establish a centralized licensing program for retail businesses. I don't believe we can do that for \$33,936 as a start-up.

I again urge you to vote for the indefinite postponement of L.D. 512.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: I realize the hour is late but I think this is extremely important.

The Representative from Fryeburg said that we have done a lot of things here that may be detrimental to the towns. We have done some thing that may be detrimental to businesses.

I believe that this is a step in the right direction to help some of our businesses get off the ground in the State of Maine. We keep hearing about DECD and what they have done over the last two years — I haven't seen anything. We have something concrete in hand here, we have an opportunity to take a step in the right direction. I like to view this as a pilot program. I really have a problem with revamping an entire system like DECD is purported to be doing. I would rather go out with a pilot program like this, find out the pitfalls, fix the small problems and then expand it to a greater degree.

I also would like to emphasize that everything in this bill is optional. No municipality is forced to take on this responsibility, this is a choice a municipality has if they want to serve their local constituents better. If that constituent, if that resident of that town chooses not to go to the municipality, they don't want to pay the extra \$4.00, they can still come to the state and get it done at the DECD. If they don't want to go to DECD, they can still go back to the old system of running around until you are about to go crazy trying to figure out all of the permits that you need.

I would submit to you that any businessman or businesswoman in the State of Maine trying to get off the ground with a new business would much prefer to go to one location, have a list given to them of the licenses that they need, merely check off those licenses, write a check for half of the total amount and go home and wait for the material to come in the mail. To me, that is a much, much simpler process to go through than what we presently have. It may not be perfect but it is a step in the right direction and I urge you to support us on this. We did have some subcommittee meetings, we spent some time with different agencies talking about how to do this, we fixed some things in it.

Mr. Speaker, when we do have the vote, I would

request a roll call.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I have been listening actually for the last 24 hours about this particular piece of legislation with some interest and I have enjoyed the dynamics as we have gotten from this Divided Report on the Calendar towards actually beginning to debate this particular piece of legislation and had the good opportunity to discuss this with both Representative Hogle and Representative Melendy. I commend them both for articulating their case and for their legitimate concern for an issue that I think we all share. While we may disagree a little bit about the best way to proceed here, I, for one, am grateful that we are, once and for all, talking about something that we all feel strong about and that is helping businesses, helping businesses work through this bureaucratic maze that we have all seen and witnessed over the years.

This particular concept is not new as has been said. I can think of several occasions when (I know I have had a bill in and some others have a bill in) we tried to push it forward to advance this particular concept. The concept itself is not different. If you look at what we did in 1983 when we said that there needs to be some sort of "one stop shopping" for business loans, we created the Finance Authority of Maine, put them in one location so businesses would have an idea where to go. In 1989, we did the same thing with student financial loans, we put those in one place. I think that makes sense and I think we still ought to move in that direction. That is why I am excited that we are having this debate, even if there is a fundamental disagreement on which is the best way to accomplish that.

I think perhaps there is still kinks in this bill, frankly, in terms of the nature of the permits that are going to be affected. I think there has got to be clarification in the amendments. I am not convinced by any stretch of imagination that municipalities are willing to take this on or that they will find it desirable but I am also not ready to kill the bill at this moment.

As I said, I have had this legislation in or something similar to this over the years and I haven't exactly seen it come about with DECD, with different commissioners but I would like to see it come about. My suggestion is that you vote against the motion to indefinitely postpone at this point, give this bill its first reading and then we put this collective energy that is out here and see if we can work something out. If we are really seriously interested in resolving this, maybe there is a way to put this together. I would hope that's the case, we all have the same interests and the same goals in mind and I am willing to sit down with anybody that shares that goal and I would urge you to vote against the motion to indefinitely postpone, give this bill its first reading and let's find out if we can work out the kinks that people think exist.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Rockland, Representative Melendy, that L.D. 512 and all its accompanying papers be indefinitely postponed. Those in favor

will vote yes; those opposed will vote no.

4 having voted in the affirmative and 112 in the negative, the motion to indefinitely postpone did not prevail.

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

#### ROLL CALL NO. 138

YEA - Adams, Ahearne, Aikman, Aliberti, Ault, Bailey, H.; Bailey, R.; Barth, Beam, Bennett, Bowers, Brennan, Bruno, Campbell, Carleton, Carr, Carroll, Cashman, Chase, Chonko, Clark, Cloutier, Clukey, Coles, Constantine, Cote, Cross, Daggett, DiPietro, Donnelly, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farnum, Farren, Fitzpatrick, Foss, Gamache, Gould, R. A.; Gray, Greenlaw, Gwadlosky, Hale, Hatch, Hichborn, Hogle, Holt, Hussey, Johnson, Joy, Kerr, Ketterer, Kilkelly, Kneeland, Kutasi, Lemke, Lemont, Libby James, Lindahl, Lipman, Look, MacBride, Marshall, Michael, Mitchell, E.; Murphy, Nadeau, Nash, Norton, O'Gara, Ott, Paradis, P.; Pendexter, Pendleton, Pinette, Plowman, Pouliot, Rand, Reed, G.; Reed, W.; Ricker, Robichaud, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Simoneau, Skoglund, Small, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Tardy, Taylor, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, True, Tufts, Walker, Wentworth, Winn, Young, Zirnkilton.

NAY - Heeschen, Kontos, Melendy, Plourde.

ABSENT - Anderson, Birney, Cameron, Caron, Cathcart, Clement, Coffman, Dexter, Dore, Gean, Heino, Hillock, Jacques, Jalbert, Joseph, Larrivee, Libby Jack, Lord, Marsh, Martin, H.; Michaud, Mitchell, J.; Morrison, Nickerson, Oliver, Pfeiffer, Pineau, Poulin, Richardson, Spear, Thompson, Treat, Vigue, Whitcomb, The Speaker.

Yes, 112; No, 4; Absent, 35; Paired, 0; Excused, 0.

112 having voted in the affirmative and 4 in the negative with 35 being absent, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-367) was read by the Clerk.

Representative Hogle of Portland offered House Amendment "A" (H-408) to Committee Amendment "A" (H-367) and moved its adoption.

House Amendment "A" (H-408) to Committee Amendment "A" (H-367) was read by the Clerk and adopted.

Committee Amendment "A" (H-367) as amended by House Amendment "A" (H-408) thereto was adopted and the bill assigned for second reading Wednesday, 26, 1993.

The Chair laid before the House the following

matter: Bill "An Act to Authorize Maine Financial Institutions and Credit Unions to Sell Annuities" (H.P. 778) (L.D. 1051) (C. "A" H-399) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

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

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

Mr. Speaker, Ladies and Gentlemen of the House: I know that we debated this issue at length last night or yesterday sometime and here we go again.

This lets banks sell annuities. What are annuities? An annuity is a product that people buy as a tax deferred investment. Insurance companies now can sell annuities and banks want the opportunity to sell them.

The argument is that there could be coercion here. The banks are already selling IRA's, CD's, and they have the opportunity to see how much money people have in their accounts and give this list to some person and say, "How about buying an annuity?" They get the commission on the annuity and the money gets underwritten by an insurance company, either Prudential, Hancock, or Travelers or some large insurance company and the money leaves the state.

The other opportunity that banks have is to come up with their own product, invest into something that the bank has, either a tax deferred CD that they can come up with or some other item that this person can invest in.

Banks weren't too interested a few years ago to invest in annuities when interest rates were 20 percent because annuity interest rates were 12 percent. At that time, they could have cared less about annuities. All of a sudden interest rates have come down and they thought "Wow, what a wonderful product out there, we want to sell annuities."

The other item is regulation. How are you going to regulate someone that is already in a bank, they have an insurance license selling a product that the bank has a right to sell. We have talked with the Bureau of Insurance and the Bureau of Banking and they will say, "We will work out the bugs." Ladies and gentlemen, I think there are a lot of bugs there that they have a hard time working out. Two highly regulated industries.

Hopefully you will go along and vote for this motion.

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

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: When Representative Kutasi had a chance to speak with you last evening out went that opportunity when I saw so many people rushing out the door when the title was announced. I am really pleased that you have taken the time to stay in this evening to talk about this very important issue.

It is an issue that you have heard many times and for many sessions. I was first introduced to this when I served on the Banking and Insurance Committee last session. Quite frankly, I was very open-minded, had no strong opinion about how it should go until I listened to testimony from both sides. Finally, I came down on the side of the people that I represent, the consumers who would like to buy an annuity.

Now, it has been a long day for all of you here, it has been a long day for the bankers and for the insurance agents in the lobby but the one group who is not here today is your constituents. They couldn't come down. If they could come down, I suspect they would tell you, "give us a choice."

This is not small versus large, that used to be the argument, but credit unions would also like the opportunity, small community banks would also like the opportunity to be able to have annuities and I would like to ask you to read the Committee Amendment because that is now the bill.

The Committee Amendment puts in all sorts of safeguards for insurance agents in making sure that they are licensed and trained and, quite frankly, your consumer, if those choose to buy their annuity at their local bank, they are buying it from a licensed agent and the product is owned (still) by the insurance company.

When this bill was first debated, the argument used to be that we can't let banks get into the insurance business — I have a very interesting copy of a letter that was mailed in March of 1993 and I won't say what agency has been blacked out on the stationery and of course I don't know but it is from the Prudential. It is a little question that they send out to perspective customers, it says, "Your interested, we're interested, check off the kinds of products you might like to buy from us." Of course, they list under the title of "Insurance," auto, home, renters and all the traditional things that we think of as insurance. Then there is a column called "Investment Plans" and under that we have mutual funds, CD's, tax deferred savings plans, Certificate of Deposit, first mortgages, home equity lines of credit, credit cards and IRA's — let's not kid ourselves, banks sell what we traditionally think of as insurance products but this isn't and that's what has been so troubling about this. An annuity is not an insurance product. Now you will hear arguments again that national banks are going to be able to sell annuities in the State of Maine. The only groups that we are penalizing, if we vote against this bill, would be banks that are chartered in the State of Maine.

One of the guiding principles that the Banking and Insurance Committee has always been to try to deal with parity because we did not want to give Maine banks the incentive to go into being a nationally chartered bank. We like regulating them here at home, we like the sense of a Maine bank so I can't understand why we would like to drive Maine banks to becoming nationally chartered banks simply to get the opportunity to sell this investment product.

We have safeguards for the consumer, we have safeguards for the agent, we have safeguards for all the people in the State of Maine.

I know the feeling when you are approached by an insurance agent who is your next door neighbor or a small town banker who is your next door neighbor. I would encourage you to put that aside for just a moment. No study has revealed that insurance agents are put out of business in those 26 other states that have allowed their banks to sell annuities. This is not, I repeat, not an attempt to drive insurance agents out of business. In fact, in states where banks and insurance companies sell annuities, the volume of business has grown. Competition is a wonder thing. As more people know about the product,

the more people buy them and it is an investment opportunity for people who are nearing retirement. It is only fair and smart and good consumer law to allow our own constituents to make their own decisions. We have heard lots of talk about how smart our constituents are, they don't need to be told to buckle up, they don't need to be told a lot of things, they also don't need to be told where to buy this product for their retirement.

I would encourage you please to vote against the pending motion. Mr. Speaker, I would ask for the yeas and nays.

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

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, urge you to oppose the pending motion. I will not debate this evening, I told you my thoughts last night and I hope that you will oppose the indefinite postponement of this bill.

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

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

Does this bill allow the agents only to sell annuities?

The SPEAKER: The Representative from Township 27, Representative Bailey, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: I will refer you to the amendment. The amendment was carefully crafted by the committee and some committee members may obviously want to jump in on this to further answer your question but it was designed so that an insurance sales person who might work for the bank and has a limited license with which to sell these annuities, if that is your concern, the bank will not be underwriting the annuity but rather will hire, if they choose to do so, a part-time person or a full-time person to sell annuities.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Ladies and Gentlemen of the House: The answer to the question to what I think the question is directed towards is, is an insurance agent that is either employed by the bank or comes into the bank is going to be able to sell any type of insurance in that bank other than annuities? The answer to that question is no.

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

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

The question is relative to the previous one and I am looking at the amendment I believe line 36 through 42, which seemed to me to indicate that if the seller were to be a third party agent within the bank, that the language would provide, after disclosure, the opportunity to sell, as the bill says, other insurance products. I request clarification of the statement just made by Representative Carleton.

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

The Chair recognizes the Representative from

Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: That is correct, there would have to be disclosure and the person would not be able to sell other products on the banks time or in the offices of the bank.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I am a member of the Banking and Insurance Committee, the vote on this issue was 7 to 6. I was with the Minority "Ought Not to Pass" for three reasons really. I decided after listening to all the testimony that there would be three categories of losers if the banks were allowed to sell annuities. The independent insurance agent and their employees, my neighbors, the consumer, often elderly, may be subjected to undue pressure, also my neighbors and the people of Maine because the question of annuities and their marketing by banks is still in the courts. This issue has not been resolved and that is one of the reasons the national banks are selling annuities in Maine now.

I see no benefits to counter the negative aspects of 1051 and I encourage you to vote yes on the motion.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: There has been a lot of talk in this legislature this year about leveling the playing field. The lobbyists will tell you that banks just want to be able to compete. The stickers the lobbyists are wearing say, "Let the people decide."

Point one: How many of your people have called to beg you to let the banks sell annuities, if any? I have not had one call to me from my constituents to let banks sell annuities. I have had calls from the people who work in my small insurance agencies (I have two in Berwick) that their job is on the line because they would have to lay off. One agency employs 11 and the other one I think is 8.

If this was really an important issue, don't you think you would hear from the folks back home instead of being concerned about their jobs? It is just a myth to think that this is just about allowing free enterprise and competition. It is not.

This bill will drive the little guys, the independent insurance agents, out of the annuity business. How can a little guy compete with the banks? They've got all the money. The banks' annuity person will have no overhead, the banks' sales person will have access to financial records which others will not have, records which, by the way, should be privileged and confidential and should not be used to zero in on your constituents who have the resources to purchase an annuity.

This bill creates inequity, not competition. Competition exists now among the agents who sell annuities. My fear is that this bill will drive out competition and people's private financial records may be improperly assessed. Please oppose L.D. 1051, there is simply no good reason to pass this bill.

Remember, once the insurance company gets their nose under the tent, in the banks, then they will go on to home loans, you buy insurance from them for your homes, if you get an auto loan, they will want your auto insurance and then when you have a problem with insurance like I did last week, I wouldn't be able to go to the phone and call up my agent and say,

"Hey, what is this all about?" He said to me, "I will straighten it out" and he did. That will be gone and I am one who likes to know who I am buying insurance from and I like my little independent insurance agent. I want to protect him and his business. I hope you will vote against L.D. 1051.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, a point of order?

If this debate drags on and on and no one's mind is changed and no one makes a motion, pursuant to House Rule 22 to go past nine o'clock, do we automatically adjourn to return tomorrow to continue debating this?

The SPEAKER: The Chair would answer in the affirmative.

The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I do think this is a consumer choice legislation and Representative Kutasi talked about banks creating their own product, they should be innovative -- the insurance companies have been very innovative, they have created their own mortgage companies and they sell mortgages like banks do, they have their own investment services like the banks have, they also have trust accounts as the banks have and my insurance agent talked to me just two weeks ago and told me about the money market account that I could have and I could write checks on it. That's what the banks do too so let's be fair about this, why not let the banks sell the annuities? They sell IRA's, insurance agents sell IRA's, let's let competition grow.

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

Representative RAND: Mr. Speaker, Men and Women of the House: We have heard a lot of debate on this subject, I would simply like to state two things. One, if an annuity is not an insurance product, could somebody please explain why they have to be licensed by the Bureau of Insurance, why the product can only be purchased from the insurance industry?

Since we were not all fortunate enough to get to the public hearing, just the members of the Banking and Insurance Committee, I would like to share just this one little thing that an opponent told us.

"I am not one of the big dollar boys of banking, I am one of the small business persons who will have his knees cut out from underneath me if this legislation should pass. Approximately 30 percent of my income last year came from doing a very good job of educating my clients about annuities. Some of you folks have been in business -- could you survive a 30 percent reduction on your cash flow? Could you compete with the advertising budget with a fleet of people's banks? Research has shown that it is small business like mine, not the large corporations, that have led our state out of recession in the past. Each small business hiring one person at a time will put our state back on solid financial ground. This committee, the Banking and Insurance Committee, should be looking for ways to help small business people like me, not close us down. In fact, when I hired my office assistant, I had an overwhelming number of candidates, several who had been let go from banking jobs. I find this just further proof that the bottom line with banks is profit, not people or the community."

I urge you to support the motion of indefinite postponement of this bill and all its accompanying papers.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, if my recollection serves me correctly, it was two years ago on May 22nd that was the last time we debated this bill on the floor of this House and it was about this same time, ironically. I remember we had the same discussion about tabling, Representative Wentworth, at that time. We didn't table at that time and certainly I hope we don't do it now, although I am on the other side of this issue.

My involvement with this particular legislation, although I am not a sponsor this particular year, I am interested in it. When I first became a member of this legislature, I said to the Business Legislation Committee, which at that time dealt with the issues of banking and insurance. We didn't have a separate Banking and Insurance Committee. At that time, it was a changing of wills and very amazingly changing the financial world and the distinction between what was banking and what was insurance was becoming increasingly blurred as major corporations and realtors began interchangeably offering banking and insurance products. That continued for two decades, as you know.

There has been a great deal of discussion tonight about the pros and cons and the bottom line is whether you think banks ought to be in a position to sell annuities to their customers; more importantly, to your constituents, whether or not you think your constituents deserve a choice of being able to get an annuity from your local bank. To some extent, how you get to that conclusion depends on whether you think annuities are a banking product or an insurance product. To me, it is very easy, I have always viewed it as a banking product or a financial product versus an insurance product. I know that there may be differences of opinion with that and I accept that.

I think it was February 12, 1990 when it was the first time we began to hear that the federal controller said that the national banks can sell annuities and that has been reiterated here this evening that national banks can do that. While the issue of consumer choice and competitive benefits and the supporting evidence, as Representative Mitchell said, that 26 states are now allowing banks to sell annuities are important, the issue of parity between national banks and those other banks in the State of Maine is also increasingly important.

One of the arguments that we have heard traditionally and we have heard tonight is, how can you possibly pit a giant bank against small insurance agents? I firmly believe that insurance agents can compete with banks just as small insurance agents have competed against large insurance companies for many, many years. Even if that is the case, is there anything so wrong with a little competition?

We have heard a lot of discussion over the years about free enterprise in this institution and I can't imagine why it is that some insurance companies who have asked for less regulations over the years in some areas and more competition in other areas would now impose this move toward even expanded competition.

Another argument that we often hear is, why can't

banks just do banking? I am sympathetic to that because I felt that way over the years. The question is, what is banking and what is financial assistance? It used to be in the old days if you wanted to get a car loan, then you went to your bank; now you go to your car dealer in many instances. It used to be in the old days if you wanted an IRA, you went to your bank and now you can get your IRA from an insurance company just as easy as you can a bank. It used to be in the old days if you wanted a checking account, you went to your bank; now you have stockbrokers like Merrill Lynch and Charles Swab who are offering checking accounts and checking services for people. It used to be in the old day if you wanted a credit card, you went to your bank; now you can get it from any major realtor. In fact, if you just stay home, you are going to get a credit card in the mail with a new expanded limit in the next 24 hours. The reality is, ladies and gentlemen of the House, this is an extremely changing world, continues to be a changing world and financial services are becoming more and more of a mixed bag.

Twenty-six states across the country believe that it is fair to provide a choice for consumers to get an annuity product from a bank just as they currently do from insurance agents within this state and I think it is appropriate. Much of the opposition over this change over the years has been traditional and historic. There are those people, insurance agents, who specifically want to continue doing business in this state the way it has always been done before. We can choose tonight to do business as business has always been done for the benefit of one specific group, the insurance agents, or we can choose increased competition for the benefit of all Maine consumers, indeed for the benefit of your constituents and mine.

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

Representative KUTASI: Mr. Speaker, Ladies and Gentlemen of the House: The Representative from Fairfield, Representative Gwadosky, mentioned about the competition — I just want to reiterate what I feel about competition.

The large insurance underwriters are not here saying to you, "Oh, don't do this, don't let the banks sell this product." They could care less about who sells the product. Prudential and Travelers, they don't care who sells their annuities because their pots are getting bigger. The fact is that it is the little guy that is selling annuities and if you let a bank sell annuities, that is not competition, it is selling the same product that the little guy is selling. If you want competition, let them come up with their own product, their own item that they want to sell. That's real competition. This isn't competition, this is the same thing, except they are taking the legs out from under the little guy, as Representative Rand from Portland said.

Please support the motion to indefinitely postpone.

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

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: I really cannot let this debate end on the note of big guy versus little guy without reminding you that your little local credit union is also a little guy who is very interested in having this opportunity.

One of the Representatives stated that none of your consumers called you today to tell you about this bill. That doesn't surprise me, they don't call us about a lot of things if they don't know we are debating on a particular day.

I do want to share with you a letter from the credit union, just a piece of it, talking about why they would like to participate. "Credit union members have reported strong interest in purchasing annuities from their credit union. The situation most frequently arises when a member's IRA matures and a member wishes to roll it over into an annuity. The members would rather purchase the annuity from their credit union, an institution with which members generally have had long established and comfortable relationship. They are not comfortable with finding on their own another place to buy this product."

The other issue of consumer benefits and let's talk about that for a few minutes. A nationally recognized authority, Dr. Kenneth Kera, of Consumer Financial Services, notes that one major consumer benefit that has not been mentioned here resulting from banks and credit unions selling annuities is the expanded opportunities for less affluent customers to purchase an annuity. The evidence indicates that instead of taking annuity customers away from insurance agents, banks are actually expanding the market and reaching out generally to non-affluent, middle-classed investors who are not necessarily reached by agents.

As to Representative Rand's question, the reason they don't do it in Maine is because we have a state law that says they can't because state banks cannot sell them so it has nothing to do with whether or not it is a financial product or an insurance product, the state banks cannot sell annuities under existing law.

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

Representative RAND: Mr. Speaker, Ladies and Gentlemen of the House: It has been said here that 26 states allow banks to sell annuities. There is really only one state that allows banks to sell annuities and do the underwriting and that is South Dakota. That is a new law, we don't know what has become of the insurance agents or what has happened in that state. Only one state, one other state, allows underwriting that is really selling annuities.

My question was, if an annuity is not an insurance product, why in the amendment does the bank agent have to be licensed by the Bureau of Insurance and undergo continuing education because it is, indeed, an insurance product? The bank is not creating a new product calling it an annuity and selling it to the public, the bank is employing their own agent and that agent is going to the insurance industry and buying the insurance product. That is just exactly the way it is.

The SPEAKER: The Chair recognizes the Representative from Mount Desert, Representative Zirkilton.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: Years ago, the banks came here and asked for permission to be able to sell both annuities and life insurance and this legislator said no at the time. This year, they came here and asked to be able to sell annuities and I thought about it and I talked with them and I decided that in my mind it made sense that they should be able to sell annuities, I still believe that.

There are some problems in my mind with this bill in its present form. It has a residual effect, maybe unintended, maybe intended, I don't know, but as it is written now, a possessor of a general line license and a life and health license and an annuity license could be on the bank premises and could sell annuities during banking time. Then outside of that environment, whether solicited through mail or after hours or by phone call off-premises or whatever else, that individual who has that contractual arrangement with the bank could use that client list and go after those names for other types of insurance. I don't think they should be able to do that. I don't think they should be able to use the premise of being able to sell annuities as a means to try and secure other forms of insurance. So, I will vote for this now, but if at some point between now and enactment this bill is amended to address that concern, it will then enjoy my full support. If it does not, it will be difficult for me to vote for this when it reaches final enactment stage knowing that the end result is going to be sales of insurance lines well beyond just annuities.

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

Representative ALIBERTI: Mr. Speaker, I would like to pose a question through the Chair of last year's banking committee, Representative Mitchell.

Does this bill include the credit unions as a part of the banking industry to sell annuities?

The SPEAKER: The Representative from Lewiston, Representative, Aliberti, has posed a question through the Chair to the Representative from Vassalboro, Representative Mitchell, who may respond if she so desires.

The Chair recognizes that Representative.

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: Yes.

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

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: I think that is one element that has not been mentioned here. Where have you found a more credible way of doing business than the credit unions? How many of the credit unions have failed in the State of Maine? How many of the credit unions has refused a little personal service that you need in your communities? Can anyone here say that they object to the family-type kind of banking community known as credit unions and that they would not serve you in the best kind of way for your concerns?

I urge you to support the bill that provides for the annuities for the banking industry.

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 Rockland, Representative Melendy, that L.D. 1051 and all its accompanying papers be indefinitely postponed.

The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Pursuant to House Rule 7,

I request permission to pair my vote with the Representative from Nobleboro, Representative Spear. If he were present and voting, he would be voting nay; I would be voting yea.

The Chair recognizes the Representative from Houlton Representative Campbell.

Representative CAMPBELL: Pursuant to House Rule 7, I request permission to pair my vote with the Representative from Waterville, Representative Joseph. If she were present and voting, she 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 permission to be excused from this vote.

The SPEAKER: The Chair will excuse the Representative from Presque Isle, Representative Donnelly, from voting on this issue.

The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Pursuant to House Rule 7, I request permission to pair my vote with the Representative from Oakland, Representative Poulin. If he were present and voting, he would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Constantine.

Representative CONSTANTINE: Mr. Speaker, pursuant to House Rule 19 and Joint Rule 10, I request permission to be excused from this vote.

The SPEAKER: The Chair will excuse the Representative from Bar Harbor, Representative Constantine, from voting on this issue.

The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Pursuant to House Rule 7, I request permission to pair my vote with the Representative from Auburn, Representative Dore. If she were present and voting, she would be voting nay; I would be voting yea.

The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Pursuant to House Rule 7, I request permission to pair my vote with the Representative from Lisbon, Representative Jalbert. If he were present and voting, he would be voting nay; I would be voting yea.

The Chair recognizes the Representative from Bath, Representative Holt.

Representative HOLT: Pursuant to House Rule 7, I request permission to pair my vote with the Representative from Old Town, Representative Coffman. If he were present and voting, he would be voting yea; I would be voting nay.

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

Representative NORTON: Mr. Speaker, pursuant to House Rule 19 and Joint Rule 10, I request permission to be excused from this vote.

The SPEAKER: The Chair will excuse the Representative from Winthrop, Representative Norton, from voting on this issue.

The Chair recognizes the Representative from Milo, Representative Hussey.

Representative HUSSEY: Pursuant to House Rule 7, I request permission to pair my vote with the Representative from Kingfield, Representative

Dexter. If he were present and voting, he would be voting nay; I would be voting yea.

The Chair recognizes the Representative from Glenburn, Representative Winn.

Representative WINN: Pursuant to House Rule 7, I request permission to pair my vote with the Representative from Orono, Representative Cathcart. If she were present and voting, she would be voting yea; I would be voting nay.

The Chair recognizes the Representative from Bucksport, Representative Swazey.

Representative SWAZEY: Pursuant to House Rule 7, I request permission to pair my vote with the Representative from Waterville, Representative Jacques. If he were present and voting, he would be voting yea; I would be voting nay.

Pursuant to House Rule 19 and Joint Rule 10, the Speaker excused himself from voting.

The SPEAKER: The pending question before the House is the motion of the Representative from Rockland, Representative Melendy, that L.D. 1051 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 139

YEA - Adams, Aikman, Ault, Bailey, R.; Barth, Cameron, Cashman, Chonko, Clukey, Cote, Cross, DiPietro, Dutremble, L.; Farnum, Foss, Gean, Gould, R. A.; Greenlaw, Heeschen, Joy, Kontos, Kutasi, MacBride, Marshall, Michael, Murphy, Pendexter, Plourde, Plowman, Rand, Reed, G.; Reed, W.; Robichaud, Saint Onge, Simonds, Skoglund, Stevens, A.; Stevens, K.; Strout, Taylor, Townsend, L.; True, Vigue, Walker, Wentworth, Young.

NAY - Ahearne, Aliberti, Bailey, H.; Beam, Bennett, Bowers, Brennan, Carleton, Carr, Carroll, Chase, Clark, Cloutier, Driscoll, Erwin, Faircloth, Farnsworth, Farren, Fitzpatrick, Gamache, Gray, Gwadosky, Hatch, Hichborn, Hogle, Johnson, Kerr, Ketterer, Kilkelly, Kneeland, Lemont, Libby James, Lindahl, Lipman, Look, Melendy, Michaud, Mitchell, E.; Nadeau, Nash, O'Gara, Ott, Paradis, P.; Pendleton, Pinette, Pouliot, Ricker, Rotondi, Rowe, Ruhlman, Rydell, Saxl, Simoneau, Small, Sullivan, Tardy, Townsend, E.; Townsend, G.; Tracy, Treat, Tufts, Zirnkilton.

ABSENT - Anderson, Birney, Caron, Clement, Heino, Hillock, Larrivee, Lemke, Libby Jack, Lord, Marsh, Martin, H.; Mitchell, J.; Morrison, Nickerson, Oliver, Pfeiffer, Pineau, Richardson, Thompson, Whitcomb.

PAIRED - Cathcart (Yea)/ Winn (Nay); Poulin (Yea)/ Coles (Nay); Daggett (Yea)/ Jalbert (Nay); Hale (Yea)/ Dore (Nay); Coffman (Yea)/ Holt (Nay); Hussey (Yea)/ Dexter (Nay); Jacques (Yea)/ Swazey (Nay); Joseph (Yea)/ Campbell (Nay); Bruno (Yea)/ Spear (Nay).

EXCUSED - Constantine, Donnelly, Norton, The Speaker.

Yes, 46; No, 62; Absent, 21; Paired, 18; Excused, 4.

46 having voted in the affirmative and 62 in the negative with 21 being absent, 18 having paired and 4 excused, L.D. 1051 was not indefinitely postponed.

Subsequently, L.D. 1051 was passed to be engrossed as amended by Committee Amendment "A" (H-399) and sent up for concurrence.

(Off Record Remarks)

On motion of Representative Wentworth of Arundel, Adjourned at 8:58 p.m. until Wednesday, May 26, 1993, at four o'clock in the afternoon.