

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME V

SECOND REGULAR SESSION

House of Representatives
January 5, 1994 to April 14, 1994

ONE HUNDRED AND SIXTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
25th Legislative Day
Tuesday, March 22, 1994

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

Prayer by the Honorable Marge L. Kilkelly, Wiscasset.

National Anthem by Richmond Middle/High School Band.

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

COMMUNICATIONS

The following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333

March 18, 1994

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

Dear Clerk Mayo:

Pursuant to House Rule 1, I hereby appoint Representative Michael H. Michaud of East Millinocket to serve as Speaker pro tempore on Tuesday, March 22, 1994.

Sincerely,

S/Dan A. Gwadosky
Speaker of the House

Was read and ordered placed on file.

Representative MICHAUD of East Millinocket assumed the Chair.

The Journal of Thursday, March 10, 1994 was read and approved.

SENATE PAPERS

Divided Report

Majority Report of the Committee on **Fisheries and Wildlife** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-437) on Bill "An Act Authorizing the Commissioner of Inland Fisheries and Wildlife to Award 5 Moose Hunting Permits through

Public Auction to Fund Youth Conservation Education Programs" (S.P. 661) (L.D. 1829) (Governor's Bill)

Signed:

Senators: HALL of Piscataquis
LUTHER of Oxford
O'DEA of Penobscot

Representatives: GREENLAW of Standish
HEINO of Boothbay
JACQUES of Waterville
LARRIVEE of Gorham
ROTONDI of Athens
SWAZEY of Bucksport

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

Signed:

Representatives: CLARK of Millinocket
FARREN of Cherryfield
NICKERSON of Turner
TRACY of Rome

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-437).

Reports were read.

On motion of Representative JACQUES of Waterville, tabled pending acceptance of either Report and later today assigned.

Non-Concurrent Matter

Bill "An Act to Apportion Districts for the Election of County Commissioners" (H.P. 1285) (L.D. 1733) which was passed to be engrossed as amended by Committee Amendment "A" (H-741) as amended by House Amendment "A" (H-758) thereto in the House on March 1, 1994.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-741) as amended by House Amendment "A" (H-758) and Senate Amendment "A" (S-436) thereto in non-concurrence.

The House voted to Recede and Concur.

The following Communication: (S.P. 745)

116th Maine Legislature

March 8, 1994

Senator Judy A. Paradis
Rep. Robert J. Tardy
Chairpersons
Joint Standing Committee on Agriculture
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Frederick W. Hardy of Farmington for appointment to the Northeast Interstate Dairy Compact.

Pursuant to PL 1993, Chapter 274, this nomination will require review by the Joint Standing Committee on Agriculture and confirmation by the Senate.

Sincerely,

S/Dennis L. Dutremble
President of the Senate

S/Dan A. Gwadosky
Speaker of the House

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

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

The following Communication: (H.P. 1452)

State of Maine
House of Representatives
Augusta, Maine 04333

March 11, 1994

Dan A. Gwadosky
Speaker of the House
116th Legislature

Dennis L. Dutremble
President of the Senate
116th Legislature

Dear Mr. Speaker and Mr. President:

On March 11, 1994, three Bills were received by the Clerk of the House.

Pursuant to the provisions of Joint Rule 14, these bills were referred to the Joint Standing Committees on March 11, 1994 as follows:

Banking and Insurance

Bill "An Act to Make Maine Law Consistent with the Federal Law Regarding the Omnibus Budget Reconciliation Act of 1993 and to Clarify Maine Laws Regarding Underwriting and Continuity" (H.P. 1451) (L.D. 1980) (Presented by Representative CARLETON of Wells) (Governor's Bill)

Legal Affairs

Bill "An Act to Allow Firearms Dealers, Importers and Manufacturers to Comply with the Brady Handgun Violence Prevention Act" (EMERGENCY) (H.P. 1450) (L.D. 1979) (Presented by Representative CLUKEY of Houlton) (Governor's Bill)

State and Local Government

Bill "An Act Authorizing the Kennebec County Commissioners to Issue Bonds in the Amount of \$1,500,000 for Renovation of the County Court House in Augusta" (EMERGENCY) (H.P. 1449) (L.D. 1978) (Presented by Representative JACQUES of Waterville) (Cosponsored by Senator BUSTIN of Kennebec and Representatives: MARSH of West Gardiner, PARADIS of Augusta, VIGUE of Winslow, Senator: MARDEN of Kennebec) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Sincerely,

S/Joseph W. Mayo
Clerk of the House

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

Was read and ordered placed on file and sent up for concurrence.

The following Communication:

COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS
ONE HUNDRED AND SIXTEENTH LEGISLATURE

March 16, 1994

Honorable Dennis L. Dutremble, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Appropriations & Financial Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1564 An Act to Authorize a General Fund Bond Issue in the Amount of \$1,922,575 to Improve National Guard Armories
- L.D. 1846 An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 to Rehabilitate and Expand Fish Hatchery Facilities
- L.D. 1908 An Act to Provide Supplemental Appropriations for the Loring Development Authority of Maine for Fiscal Year 1994-95
- L.D. 1941 An Act to Make Additions to the Department of Corrections Budget

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Michael D. Pearson S/Rep. Lorraine N. Chonko

Senate Chair

House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON BANKING AND INSURANCE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

March 16, 1994

Honorable Dennis L. Dutremble, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Banking & Insurance has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 44 An Act to Allow 3rd-party Reimbursement for Counseling Professionals
- L.D. 1491 An Act Concerning Preferred Provider Arrangements

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Dale McCormick S/Rep. Edward L. Pineau
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON BUSINESS LEGISLATION
ONE HUNDRED AND SIXTEENTH LEGISLATURE

March 16, 1994

Honorable Dennis L. Dutremble, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Business Legislation has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1500 An Act to Consolidate Certain State Functions and Create the Board of Licensing Counseling Professionals

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Alton E. Cianchette S/Rep. Annette M. Hoglund
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON EDUCATION
ONE HUNDRED AND SIXTEENTH LEGISLATURE

March 16, 1994

Honorable Dennis L. Dutremble, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Education has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 897 An Act to Amend the School Finance Act of 1985
- L.D. 911 An Act to Require State Funding for All Special Education Costs That Exceed Double the State Average Tuition Rates
- L.D. 939 An Act to Provide Equitable School Funding
- L.D. 1146 An Act to Provide Additional Funds to Educate Certain At-risk Students
- L.D. 1680 An Act to Encourage Efficiency in School Spending
- L.D. 1690 An Act Concerning Unusual Enrollment Increases in Schools
- L.D. 1762 An Act to Create a Single School Administrative District for Aroostook County
- L.D. 1826 An Act to Provide Access to Postsecondary Education in York County
- L.D. 1869 Resolve, to Exempt School Administrative District No. 62 from Repayment of a School Subsidy Overpayment

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. John J. O'Dea S/Rep. Elizabeth H. Mitchell
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON ENERGY AND NATURAL RESOURCES
ONE HUNDRED AND SIXTEENTH LEGISLATURE

March 16, 1994

Honorable Dennis L. Dutremble, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Energy & Natural Resources has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1641 An Act to Amend the Solid Waste Laws to Permit Quasi-municipal Corporations to Enter Agreements for Development and Financing of Waste Facilities

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Mark W. Lawrence S/Rep. John L. Martin
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON HUMAN RESOURCES
ONE HUNDRED AND SIXTEENTH LEGISLATURE

March 16, 1994

Honorable Dennis L. Dutremble, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Human Resources has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1962 An Act to Provide for a Comprehensive Investigation of the Death of Children by Homicide or through Other Suspicious

Circumstances

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Judy Paradis S/Rep. Sharon Anglin Treat
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON JUDICIARY
ONE HUNDRED AND SIXTEENTH LEGISLATURE

March 16, 1994

Honorable Dennis L. Dutremble, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Judiciary has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1266 An Act to Allow a Casino to be Constructed by the Passamaquoddy Tribe in Calais for the Purpose of Gambling

L.D. 1289 An Act to Prevent Diversion of Solid Waste

L.D. 1436 An Act to Eliminate the Statute of Limitation in Child Molestation Cases

L.D. 1511 An Act to Legalize Marijuana for Medicinal Purposes

L.D. 1514 An Act to Promote Family Financial Responsibility through More Effective Child Support Enforcement

L.D. 1669 An Act to Establish a Complaint Procedure under the Maine Human Rights Act When a Conflict of Interest Exists

L.D. 1787 An Act to Promote Fairness in Investigation of Employee Misconduct

L.D. 1934 An Act to Limit the Use of Force against Law Enforcement Officers Engaged in Searches or Seizures

L.D. 1952 Resolve, to Develop a Career Criminal Act

L.D. 1974 An Act to Change the Maine Tort Claims Act Regarding Liability with Respect to Certain Vehicles, Machinery and Equipment

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Gerard P. Conley, Jr. S/Rep. Constance D. Cote Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON LEGAL AFFAIRS ONE HUNDRED AND SIXTEENTH LEGISLATURE

March 16, 1994

Honorable Dennis L. Dutremble, President of the Senate Honorable Dan A. Gwadosky, Speaker of the House 116th Maine Legislature State House Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Legal Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1310 An Act to Promote Professionalism in the Law Enforcement Community
L.D. 1587 An Act Concerning the Possession of Firearms by Persons under the Influence of Intoxicating Liquor or Drugs or with an Excessive Blood-alcohol Level

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Richard J. Carey S/Rep. Beverly C. Daggett Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON MARINE RESOURCES ONE HUNDRED AND SIXTEENTH LEGISLATURE

March 16, 1994

Honorable Dennis L. Dutremble, President of the Senate Honorable Dan A. Gwadosky, Speaker of the House 116th Maine Legislature State House Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Marine Resources has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1659 An Act to Establish a Limit on Lobster Trap Trawls for Certain Coastal Waters
L.D. 1948 An Act to Ensure the Long-term Economic and Biological Viability of the State's Coastal Lobster Fishery

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Harry L. Vose S/Rep. James Mitchell Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON STATE AND LOCAL GOVERNMENT ONE HUNDRED AND SIXTEENTH LEGISLATURE

March 16, 1994

Honorable Dennis L. Dutremble, President of the Senate Honorable Dan A. Gwadosky, Speaker of the House 116th Maine Legislature State House Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on State & Local Government has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1140 An Act to Require Renegotiation of State Leases for Real Property
L.D. 1425 An Act to Separate Little Diamond Island in Casco Bay from the City of Portland and to Create the Little Diamond Island Village Corporation as Part of the Town of Long Island
L.D. 1429 Resolve, to Establish a Commission to Study the Size of the Legislature
L.D. 1472 An Act to Reorganize State Government
L.D. 1527 An Act to Impose Limits on the Terms of Legislators, Constitutional Officers, Members of the Judiciary and Members of

Congress and to Limit Lobbying in Successive Years

- L.D. 1866 An Act to Amend the Charter of the Northport Village Corporation
- L.D. 1944 An Act to Improve the Delivery of Law Enforcement Services in Kennebec County

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Georgette B. Berube S/Rep. Ruth C. Joseph
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON TAXATION
ONE HUNDRED AND SIXTEENTH LEGISLATURE

March 16, 1994

Honorable Dennis L. Dutremble, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1570 An Act to Modify the Taxation of Leases on Automobiles

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. John E. Baldacci S/Rep. Susan E. Dore
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON UTILITIES
ONE HUNDRED AND SIXTEENTH LEGISLATURE

March 16, 1994

Honorable Dennis L. Dutremble, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Utilities has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 530 An Act to Allow Public Utilities to Develop Economic Development Rates
- L.D. 1874 An Act to Reduce the Cost of Electricity and to Provide for Market Competition in the Production and Sales of Electricity

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Harry L. Vose S/Rep. Herbert E. Clark
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002

March 17, 1994

Hon. Joseph W. Mayo
Clerk of the House
State House #2
Augusta, Maine 04333

Dear Clerk Mayo:

This is to notify you that pursuant to my authority under 1 M.R.S.A., Section 1002 (1B), I am appointing Patricia A. Riley, of Brunswick, to the Commission on Governmental Ethics and Election Practices for the 1994-95 term. This appointment requires a two-thirds vote of concurrence by the House of Representatives.

Sincerely,

S/Dan A. Gwadosky
Speaker of the House

Was read and ordered placed on file.

On motion of Representative JACQUES of Waterville, tabled pending confirmation and later today assigned.

The following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
MAJORITY OFFICE

AUGUSTA, MAINE 04333-0002

February 25, 1994

Dan A. Gwadosky
Speaker
Office of the Speaker
State House
Augusta, Maine 04333

Dear Speaker Gwadosky:

This is to notify you that pursuant to my authority under 1 M.R.S.A., Section 1002, (1B), I am appointing Nelson Madore of Waterville, to serve on the Commission on Governmental Ethics and Election Practices. This appointment requires a two-thirds vote of concurrence by the House of Representatives.

Sincerely,

S/Paul F. Jacques
House Majority Leader

Was read and ordered placed on file.

On motion of Representative JACQUES of Waterville, tabled pending confirmation and later today assigned.

The following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
HOUSE MINORITY OFFICE
AUGUSTA, MAINE 04333-0002

February 11, 1994

Speaker Dan Gwadosky
Office of the Speaker
State House Station #2
Augusta, Maine 04333

Dear Speaker Gwadosky:

Pursuant to my authority under 1 M.R.S.A., Section 1002 (1)(B), I am appointing Peter B. Webster to serve as a member of the Commission on Governmental Ethics and Election Practices.

This appointment is subject to a two-thirds approval by the House of Representatives.

Sincerely,

S/Stephen Zirnkilton
Assistant Minority Leader

Was read and ordered placed on file.

On motion of Representative JACQUES of Waterville, tabled pending confirmation and later today assigned.

ORDERS

On motion of Representative PINEAU of Jay, the following Joint Order: (H.P. 1453)

ORDERED, the Senate concurring, that the Joint Standing Committee on Banking and Insurance report out a bill, "An Act to Create the Maine Health Care Authority," to the House.

Was read and passed and sent up for concurrence. Ordered sent forthwith.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 56 and Joint Rule 34, the following items:

Recognizing:

Andy Bedard, member of the 1994 Mountain Valley High School Basketball Team in Rumford that won the Class B State Championship. Andy scored the most points in a State Championship game with 53 points, a tournament record of eight 3-pointers, 17 field goals and tied the free-throw mark with 11; (HLS 877) by Representative ERWIN of Rumford. (Cosponsors: Senator LUTHER of Oxford, Representative CAMERON of Rumford)

On objection of Representative ERWIN of Rumford, was removed from the Special Sentiment Calendar.

On further motion of the same Representative, tabled pending reading and specially assigned for Wednesday, March 23, 1994.

the following members of the Mountain Valley High School "Falcons" Basketball Team, of Rumford, winners of the Class B State Basketball Championship: Andy Bedard, Adam Dayon, Shawn Spadea, Steve Gonzales, Matt Foreman, Dean Boudreau, Robert Callahan, Micah Cormier, Chris West, Kevin New, Jack Dorr, Jason Carrier, Chad Haynes, Clay Marston and Mark Jorgensen; managers Luann Burns and Jenn Perry; and coaches Matt Kaubris, Don Roberts, Andy Shorey, Chris Gorham and Tim Giasson; (HLS 879) by Representative ERWIN of Rumford. (Cosponsors: Senator LUTHER of Oxford, Representative CAMERON of Rumford)

On objection of Representative ERWIN of Rumford, was removed from the Special Sentiment Calendar.

On further motion of the same Representative, tabled pending reading and specially assigned for Wednesday, March 23, 1994.

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative RAND from the Committee on Taxation on Bill "An Act to Increase the County Share of the Real Estate Transfer Tax" (H.P. 464) (L.D. 601) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-854)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-854) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

Ought to Pass as Amended

Representative SIMONEAU from the Committee on Taxation on Bill "An Act to Eliminate the Sales Tax on Snack Foods" (H.P. 560) (L.D. 757) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-833)

Report was read and accepted. The bill read once.

On motion of Representative Martin of Eagle Lake the House reconsidered its action whereby the "Ought to Pass" as amended by Committee Amendment "A" (H-833) was adopted.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I would now move that we accept the "Ought to Pass" Report and would ask any member of the Taxation Committee as to the purpose of the bill and what is their intention and why are we repealing the tax? Even though I am very impressed by that since I own a store, it seems to me a little foolish to be terminating a tax at the end of the biennium and then the next legislature will have to deal with the problem, so I wonder what the logic was when the Taxation Committee reviewed this piece of legislation?

The SPEAKER PRO TEM: The Representative from Eagle Lake, Representative Martin, has posed a question through the Chair to anyone on the Taxation Committee who may respond if they so desire.

The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: This piece of legislation is my bill, I put it in last year, and it was held over. Actually we are not repealing it, I wanted to repeal part of it to get it back where it was, but what we came out with in the end, and it was a compromise and I agreed because I couldn't find \$11 million in plain English, — California had the snack tax, they found it very regressive and they repealed it, so what this piece of legislation actually does is it sunsets it until 1996. It says that in 1996, we will take another look and see if we can afford to repeal at that time. We put a sunset on it for two years and we will take another look and see if our business is up and taxes are up, then we can take this snack tax off.

If you remember, we increased the amount of things we taxed back two years ago when we really needed the money. At this point, we tax a whole pie, a whole cake, a pound of cookies, a pound of crackers. Maine is a potato state and we put that tax on potato chips and a lot of our potatoes go for potato chips and especially down, (and I hate to say it) but along the New Hampshire border, it is a very regressive tax. The small stores do not sell any of these things because they can go across the river and they can pick them up for 6 percent less. So, this is the reason I put this in and all this bill does is to

sunset it to 1996 and then take another look at it in 1996 and see what we can do then.

I would hope that you would go along with this because I feel as though it is a very fair thing to do and everybody concerned agreed to it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: A number of years ago, there was a saying "that a fee was a tax and the tax was a tax." Now it seems we have created a new mechanism — a repeal of a tax is a sunset. If someone can explain to me whether we are in effect sunsetting a tax, which in my mind means the same as terminating a tax, then I am willing to accept the piece of legislation. From my point of view, it appears that what we are doing is going around the door while the horse is still in the barn and repealing a tax by using the word "sunset." If that is not the case, I would ask some member of the Taxation Committee to explain the difference between sunset and repeal.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: To the good Representative from Eagle Lake, I have to agree that it is the same, repeal and sunset, but what the sunset will do in two years is give us a chance to look at it again and if we can't afford it, we will just have to keep it in there. Hopefully, we will be able to, at that time, repeal a tax that I think is hurting the small businesses, especially those along the Maine/New Hampshire border. For three or four miles along that border, we really cannot afford the snack tax. We don't have the business. We have a little one in Eliot that may have to go out because of the taxes we have there and that will be the only store in the town of Eliot.

Subsequently, Representative Martin of Eagle Lake withdrew his motion to accept the Unanimous "Ought to Pass" Report.

Representative Martin of Eagle Lake moved that the bill and all accompanying papers be indefinitely postponed.

On motion of Representative Zirnkilton of Mount Desert, tabled pending the motion of Representative Martin of Eagle Lake that the bill and all accompanying papers be indefinitely postponed and later today assigned.

Ought to Pass as Amended

Representative MITCHELL from the Committee on Marine Resources on Bill "An Act Concerning Commercial Divers" (H.P. 973) (L.D. 1304) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-835)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-835) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

Ought to Pass as Amended

Representative TREAT from the Committee on **Human Resources** on Bill "An Act to Authorize Use of Civil Administrative Penalty Authority and Administrative Order Authority Against Violation of Federal and State Drinking Water Laws, Regulations and Rules" (EMERGENCY) (H.P. 1329) (L.D. 1792) reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-864)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-864) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

Ought to Pass as Amended

Representative HOG LUND from the Committee on **Business Legislation** on Bill "An Act to Strengthen the Maine Bottle Deposit Laws" (H.P. 1343) (L.D. 1810) reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-839)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-839) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

Ought to Pass as Amended

Representative SPEAR from the Committee on **Taxation** on Bill "An Act to Implement the Recommendations of the Commission to Study the Statutory Procedures for Local Property Tax Abatement" (H.P. 1387) (L.D. 1886) reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-853)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-853) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

Ought to Pass as Amended

Representative HOG LUND from the Committee on **Business Legislation** on Bill "An Act to Allow for Reciprocal Licensure for Electricians in the State" (H.P. 1400) (L.D. 1909) reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-847)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-847) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

CONSENT CALENDAR

First Day

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

(H.P. 1218) (L.D. 1637) Bill "An Act Regarding Insurance Coverage for Mental Illness" Committee on **Banking & Insurance** reporting "**Ought to Pass**"

(H.P. 1397) (L.D. 1906) Resolve, Authorizing the State to Release its Interest in Certain Real Property in Belfast Committee on **State & Local Government** reporting "**Ought to Pass**"

(H.P. 1398) (L.D. 1907) Bill "An Act to Authorize an Increase in the Holdings of the Farmington Home for Aged People" (EMERGENCY) Committee on **Aging, Retirement & Veterans** reporting "**Ought to Pass**"

(H.P. 1439) (L.D. 1965) Bill "An Act to Facilitate Government Investment in Mutual Funds" Committee on **Banking & Insurance** reporting "**Ought to Pass**"

(H.P. 681) (L.D. 923) Bill "An Act to Amend the Underground Oil Storage Tank Replacement Fund" (EMERGENCY) Committee on **Energy & Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-868)

(H.P. 1071) (L.D. 1437) Resolve, to Require That Doctors of Chiropractic Be Included as Select Physicians in the Maine State Employees Health Plan (EMERGENCY) Committee on **Banking & Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-859)

(H.P. 1096) (L.D. 1483) Bill "An Act Regarding Cable Television" Committee on **Utilities** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-836)

(H.P. 1106) (L.D. 1493) Bill "An Act to Enable the Creation of the Volunteer Social Workers' Project" Committee on **Business Legislation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-848)

(H.P. 1188) (L.D. 1585) Bill "An Act to Clarify Certain Provisions of Maine's Hospital Payment System" Committee on **Human Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-834)

(H.P. 1235) (L.D. 1662) Bill "An Act to Study Eagle Mortality in Maine and Its Relationship to Human Health" Committee on **Fisheries & Wildlife** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-844)

(H.P. 1239) (L.D. 1666) Bill "An Act to Permit Electric Utilities Greater Flexibility in Adjusting Electric Utility Prices to Meet Changing Market Conditions" Committee on **Utilities** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-862)

(H.P. 1245) (L.D. 1672) Bill "An Act to Provide Assistance to Homeowners Who Have Faulty Septic Systems" Committee on **Energy & Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-866)

(H.P. 1266) (L.D. 1693) Bill "An Act to Revise the Eastport Port Authority Charter" Committee on **Housing & Economic Development** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-860)

(H.P. 1269) (L.D. 1696) Bill "An Act to Create the Seal Harbor Water District" Committee on **Utilities** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-841)

(H.P. 1309) (L.D. 1764) Bill "An Act to Preserve Productive Forests" (EMERGENCY) Committee on **Energy & Natural Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-846)

(H.P. 1313) (L.D. 1775) Bill "An Act to Establish a Technical College in York County" Committee on **Education** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-851)

(H.P. 1320) (L.D. 1782) Bill "An Act to Clarify the Tax-exempt Status of Nonprofit Rental Housing" (EMERGENCY) Committee on **Taxation** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-831)

(H.P. 1349) (L.D. 1815) Bill "An Act to Amend the Tree Growth Tax and Open Space Voluntary Withdrawal Laws" Committee on **Taxation** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-832)

(H.P. 1362) (L.D. 1841) Bill "An Act to Create Retirement Alternatives" (EMERGENCY) Committee on **Aging, Retirement & Veterans** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-867)

(H.P. 1369) (L.D. 1853) Bill "An Act to Amend the Growth Management Laws Concerning Dimensional Variances" Committee on **Energy & Natural Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-827)

(H.P. 1383) (L.D. 1882) Resolve, to Establish Minimum Standards for Adult and Family Shelters in the State Committee on **Human Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-829)

(H.P. 1396) (L.D. 1905) Bill "An Act to Amend the General Assistance Standard of Need" Committee on **Human Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-863)

(H.P. 1406) (L.D. 1915) Bill "An Act to Establish the Somerset County Advisory Budget Committee" Committee on **State & Local Government** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-852)

(H.P. 1428) (L.D. 1953) Bill "An Act to Designate Certain Lands under the Constitution of Maine, Article IX, Section 23" Committee on **Energy & Natural Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-858)

(H.P. 1434) (L.D. 1961) Bill "An Act to Implement the Recommendations of the Maine Dairy and Nutrition Council and the Maine Dairy Promotion Board" Committee on **Agriculture** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-861)

(H.P. 1440) (L.D. 1966) Bill "An Act to Create the Blaine House Commission" (Governor's Bill) Committee on **State & Local Government** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-840)

There being no objections, the above items were ordered to appear on the Consent Calendar of later in today's session under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(S.P. 656) (L.D. 1825) Resolve, to Create Regional Funds for Self-employment (C. "A" S-435)

(S.P. 691) (L.D. 1877) Bill "An Act to Authorize the Artisans School to Grant Degrees" (C. "A" S-434)

(H.P. 1401) (L.D. 1910) Bill "An Act to Amend the Laws Governing Refuse Disposal Districts"

(H.P. 278) (L.D. 356) Bill "An Act to Establish the Advisory Council on Energy and the Environment" (C. "A" H-826)

(H.P. 1336) (L.D. 1799) Bill "An Act to Create the Great Salt Bay Utility District" (C. "A" H-825)

(H.P. 1354) (L.D. 1820) Bill "An Act to Encourage Effective Use of State Resources" (C. "A" H-818)

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

(H.P. 1360) (L.D. 1839) Bill "An Act to Amend the Charter of the Berwick Sewer District" (C. "A" H-823)

On motion of Representative MURPHY of Berwick, was removed from Second Day Consent Calendar.

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-823) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Representative MURPHY of Berwick presented House Amendment "A" (H-828) which was read by the Clerk.

On motion of Representative CLARK of Millinocket, tabled pending adoption of House Amendment "A" (H-828) and later today assigned.

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Modify the Manufacture of Motor Vehicle Registration Plates" (H.P. 1217) (L.D. 1636) (C. "A" H-819)

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.

ENACTORS

Emergency Measure

An Act to Allow the State to Enter into an Agreement with the State of South Carolina Concerning the Disposal of Low-level Radioactive Waste (H.P. 635) (L.D. 866) (C. "A" H-786)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 104 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.

Emergency Measure

An Act to Clarify the Authority of the Department of Transportation to Determine Condition of Property Prior to Acquiring (H.P. 847) (L.D. 1152) (Governor's Bill) (H. "A" H-813; H. "A" H-812 to C. "A" H-791)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Establish the Lobster Promotion Council as a Public Instrumentality (H.P. 1199) (L.D. 1607) (H. "A" H-795 to C. "A" H-774)

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

Representative MITCHELL of Freeport requested a roll call on passage to be enacted.

On motion of the same Representative, tabled pending passage to be enacted and later today assigned. (Roll Call Requested)

Emergency Measure

An Act to Provide Enhanced Enforcement Powers in the Maine Banking Laws (H.P. 1308) (L.D. 1763) (C. "A" H-790)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total

was taken. 104 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Increase Reimbursement Amounts to Municipalities Collecting Excise Taxes for Unorganized Townships (S.P. 636) (L.D. 1770) (C. "A" S-429)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 103 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Provide an Allocation for a Federally Funded Hazard Mitigation Program within the Maine Emergency Management Agency (H.P. 1350) (L.D. 1816) (C. "A" H-792)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 111 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Amend the Charter of the Canton Water District (S.P. 662) (L.D. 1830) (C. "A" S-431)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Correct the Legal Title to a Building at Southern Maine Technical College (S.P. 709) (L.D. 1917) (Governor's Bill)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Mandate

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1994 (H.P. 1443) (L.D. 1970)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and 0 against, and accordingly the Mandate was finally passed, signed by the Speaker and sent to the Senate.

An Act to Amend Certain Provisions of Law Pertaining to Brewers' Licenses (S.P. 551) (L.D. 1575) (C. "A" S-416; H. "A" H-820)

An Act to Change the Membership of the Maine Pull Events Commission (H.P. 1249) (L.D. 1676) (C. "A" H-778)

An Act to Clarify the Certification Procedures of the Maine Criminal Justice Academy (H.P. 1265) (L.D. 1692) (C. "A" H-784)

An Act to Establish a Commission to Study the Permitting Requirements Needed to Foster Sustainable Development of the State's Cranberry Industry (H.P. 1267) (L.D. 1694) (C. "A" H-789)

An Act to Establish the Debt Service Limit for Fiscal Year 1997 and Fiscal Year 1998 (S.P. 601) (L.D. 1699) (C. "A" S-430)

An Act to Establish a System of Performance-based Agreements for the Provision of Certain Social Services (H.P. 1284) (L.D. 1732) (C. "A" H-794)

An Act to Allow the Heartwood School of Art to Grant an Associate of Arts Degree (H.P. 1382) (L.D. 1881)

Resolve, to Require Further Information from the Department of Mental Health and Mental Retardation about the Plan for Persons in the Criminal Justice System (S.P. 486) (L.D. 1497) (C. "A" S-427)

Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory (S.P. 627) (L.D. 1746) (C. "A" S-428)

Resolve, to Conduct a Study on Improving Access to the Maine Technical College System (H.P. 1357) (L.D. 1832) (C. "A" H-788)

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

TABLED AND TODAY ASSIGNED

The Chair laid before the House the following items which were Tabled and Today Assigned:

Resolve, to Reclassify the Position of a Former Teacher's Aide (H.P. 1212) (L.D. 1631) (C. "A" H-811) TABLED - March 10, 1994 by Representative JALBERT of Lisbon.
PENDING - Passage to be Engrossed.

Subsequently, the Resolve was passed to be engrossed and sent up for concurrence.

Bill "An Act Concerning the Importation of Salmon" (S.P. 685) (L.D. 1871) (C. "A" S-426 and S. "A" S-433) TABLED - March 10, 1994 by Representative TOWNSEND of Portland.
PENDING - Passage to be Engrossed.

Subsequently, the Bill was passed to be engrossed in concurrence.

Bill "An Act to Implement the Recommendations of the Maine Sardine Council" (EMERGENCY) (H.P. 1386) (L.D. 1885) (C. "A" H-806) TABLED - March 10, 1994 by Representative JACQUES of Waterville.
PENDING - Passage to be Engrossed.

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

An Act Regarding the Custody of Remains of Deceased Persons (S.P. 553) (L.D. 1577) (C. "A" S-417) TABLED - March 10, 1994 by Representative JACQUES of Waterville.
PENDING - Passage to be Enacted.

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine Providing for the Direct Election of the Treasurer of State (S.P. 695) (L.D. 1893) (Governor's Bill)
- In Senate, Indefinitely Postponed.
(Committee on State and Local Government suggested)
TABLED - March 10, 1994 by Representative JACQUES of Waterville.
PENDING - Reference.

On motion of Representative JACQUES of Waterville, tabled pending reference and later today assigned.

HOUSE REPORT - "Ought to Pass" as amended by Committee Amendment "A" (H-809) - Committee on State and Local Government on Bill "An Act Regarding Access to Property via Discontinued Roads" (H.P. 1238) (L.D. 1665)

TABLED - March 10, 1994 by Representative JACQUES of Waterville.
 PENDING - Motion of Representative LARRIVEE of Gorham to Substitute the Bill for the Report.

On motion of Representative JOSEPH of Waterville, tabled pending the motion of Representative LARRIVEE of Gorham to Substitute the Bill for the Report and later today assigned.

HOUSE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (H-773) - Committee on State and Local Government on RESOLUTION, Pursuant to Article IV, Part Third, Section 15 of the Constitution of Maine Calling a Constitutional Convention to Propose Amendments to the Constitution (H.P. 873) (L.D. 1187)

TABLED - March 10, 1994 by Representative AHEARNE of Madawaska.
 PENDING - Motion of same Representative to accept the Minority "Ought to Pass" as amended Report.

On motion of Representative JOSEPH of Waterville, tabled pending the motion of Representative AHEARNE of Madawaska that the House accept the Minority "Ought to Pass" as amended Report and later today assigned.

The Speaker resumed the Chair.

The Chair laid before the House the following items which were tabled earlier in today's session:

Confirmation of Patricia A. Riley, of Brunswick, to serve on the Commission on Governmental Ethics and Election Practices for the 1994-95 term which was tabled by Representative JACQUES of Waterville.

In accordance with Title 1, Section 1002, of the Maine Revised Statutes Annotated, a 2/3 vote of those members present and voting is required. 102 having voted in favor of same and 0 against, and accordingly the nominee was confirmed.

Confirmation of Nelson Madore of Waterville, to serve on the Commission on Governmental Ethics and Election Practices which was tabled by Representative JACQUES of Waterville.

In accordance with Title 1, Section 1002, of the Maine Revised Statutes Annotated, a 2/3 vote of those members present and voting is required. 107 having voted in favor of same and 0 against, and accordingly the nominee was confirmed.

Confirmation of Peter B. Webster to serve on the Commission on Governmental Ethics and Election Practices which was tabled by Representative JACQUES of Waterville.

In accordance with Title 1, Section 1002, of the Maine Revised Statutes Annotated, a 2/3 vote of those members present and voting is required. 106 having voted in favor of same and 1 against, and accordingly the nominee was confirmed.

Bill "An Act to Amend the Charter of the Berwick Sewer District" (H.P. 1360) (L.D. 1839) (C. "A" H-823) which was tabled by Representative Clark of Millinocket pending adoption of House Amendment "A" (H-828).

Subsequently, House Amendment "A" (H-828) was adopted. The Bill was passed to be engrossed as amended by House Amendment "A" (H-828) and sent up for concurrence.

Senate Divided Report - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (S-437) - Minority (4) "Ought Not to Pass" - Committee on Fisheries and Wildlife on Bill "An Act Authorizing the Commissioner of Inland Fisheries and Wildlife to Award 5 Moose Hunting Permits through Public Auction to Fund Youth Conservation Education Programs" (S.P. 661) (L.D. 1829) (Governor's Bill) which was tabled by Representative JACQUES of Waterville pending acceptance of either Report.

Representative ROTONDI of Athens moved that the House accept the Majority "Ought to Pass" Report.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you don't accept the Majority "Ought to Pass" Report so we can go on and accept the Minority "Ought Not to Pass" Report.

It is not that I have a problem with the conservation school, I really support it wholeheartedly, but what I think we are trying to do here today is a little wrong. When you take five moose out of a drawing to use for a raffle to support an organization, I think that is totally wrong. I think they can find the money. If they need \$25,000 that bad, they can find it within the department, they don't need to raffle off five moose to do that.

If you have a problem with education or a problem with whatever the function may be, are you going to take the deer herd or whatever it may be to fund that program? I think it is totally wrong, we don't need to use the moose that way to implement a program so I hope when you vote today, you vote "Ought Not to Pass."

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

Representative FARREN: Mr. Speaker, Ladies and Gentlemen of the House: I, too, want to be on record as not opposing the conservation school. I happen to hold that in very high regard. However, there was alternative funding presented at the time this was worked and there didn't appear to be too much interest in that.

I would like to see us defeat this bill with the funding mechanism that we currently have and refer it

back to committee and come up with a different funding source.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative Heino.

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: I am in favor of this bill. I am a great supporter of the conservation school at Bryant Pond, having attended there many, many years ago myself.

These moose, the five moose, are going to meet the same ending whether they are harvested for the conservation education class or if they are harvested in the manner in which you already voted some time ago.

This bill will allow approximately 200 students to attend the conservation school and eventually with some other matching funds, we hope that this might reach as many as 400 students on a first-come, first-serve basis. Children from your districts need only to apply on a first-come basis and they might attend this school. It would be a wonderful experience for them.

I would hope that you would give serious consideration in supporting this bill and the conservation school at Bryant Pond.

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

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, am not against the conservation school but I am opposing this bill the way it is written.

I would like to comment on Representative Heino's comments that these five moose will apparently get shot anyway but it is not the idea that they will get shot anyway — if you do not pass this bill and go with the Minority Report and look for another funding, I am sure there is other funding out there of \$25,000 for the schooling. If you pass this bill, the five moose will meet that end; if you don't pass this bill and go with the Minority Report, they won't meet the end as Representative Heino said.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Barth.

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: Last year this legislature (in passing the budget) cut funds to the conservation school, thereby actually threatening its very existence. This is a chance to restore, at least partially, some of those funds in the form of scholarships, to students for conservation education. So, I would certainly urge all of you and hope that you would go with the "Ought to Pass" Report so that the school can continue to be one of the prime examples of public/private partnerships that we have in the state and also one of the prime places to bring young people together with conservation education, so please vote with the Majority Report.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I think it has been said time and time again that every child wants to go to the conservation school and I had an opportunity to send my child to that school a number of years ago but I don't think that is what we are looking at. I think we are looking at how are they going to fund this program.

Right after we had this bill, the department came in and needed \$7,000 for another bill and they found

it. I think if they need \$25,000 to fund this program, they could find it. I think it is a poor idea and a poor way to implement a program by using our moose herd, any kind of herd, for a program and that is why I am voting the way I am.

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

Representative LARRIVEE: Mr. Speaker, Men and Women of the House: I am supporting this bill. I think the department brought to us an interesting and innovative way to provide some funds for a very worthwhile cause. This does not add any additional moose permits to the total number. I think it is a very effective way and it is used in many other states. We have a lot of information from other states about how effective this process of using these moose permits or using permits in general has been. I would urge support for the Majority Report.

Representative Farren of Cherryfield 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 Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair.

In reviewing this bill, I noticed that there are five permits that will be auctioned off — can someone tell me the amount of money that is supposed to be generating? How much of that is going towards the school?

The SPEAKER: The Representative from Old Orchard Beach, Representative Kerr, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Athens, Representative Rotondi.

Representative ROTONDI: Mr. Speaker, Ladies and Gentlemen of the House: To answer the Representative's question, the commissioner told the committee that he estimated between \$25,000 and \$50,000. That may be optimistic, no one really knows until the bids come in. All the money would go to the conservation school.

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

Representative KERR: Mr. Speaker, Men and Women of the House: There is an assumption that these permits are going to bring in between \$25,000 and \$50,000, that's a great discrepancy. I don't think we should be booking revenues on anticipation from an auction.

I would urge you to oppose the pending motion.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to anyone on the Appropriations Committee who might like to answer.

I would much rather have the funding for this school from out of that source, that failing however, I am going to vote for this bill.

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

ROLL CALL NO. 254

YEA - Aliberti, Ault, Bailey, H.; Bailey, R.; Barth, Beam, Bennett, Birney, Brennan, Carleton, Caron, Carroll, Cloutier, Coffman, Coles, Cote, DiPietro, Dore, Driscoll, Dutremble, L.; Erwin, Farnum, Gean, Gould, R. A.; Greenlaw, Hatch, Heino, Hichborn, Holt, Jacques, Joseph, Ketterer, Kilkelly, Kontos, Larrivee, Lemont, Libby Jack, Libby James, Lipman, Lord, MacBride, Marsh, Marshall, Melendy, Michael, Mitchell, E.; Mitchell, J.; Murphy, Nadeau, Nash, Norton, Paradis, P.; Pendexter, Pinette, Plourde, Plowman, Rand, Reed, G.; Reed, W.; Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saxl, Simonds, Skoglund, Small, Spear, Stevens, K.; Swazey, Taylor, Townsend, G.; Townsend, L.; Treat, True, Tufts, Vigue, Walker, Whitcomb, Winn, Young.

NAY - Adams, Ahearne, Aikman, Anderson, Bowers, Cameron, Campbell, Carr, Cashman, Chase, Chonko, Clark, Clukey, Constantine, Cross, Daggett, Donnelly, Faircloth, Farren, Fitzpatrick, Gamache, Gray, Hale, Heesch, Hussey, Jalbert, Johnson, Joy, Kerr, Kneeland, Lemke, Lindahl, Look, Michaud, Morrison, O'Gara, Oliver, Pfeiffer, Pineau, Poulin, Pouliot, Robichaud, Saint Onge, Stevens, A.; Sullivan, Thompson, Townsend, E.; Tracy, Wentworth, Zirnkilton.

ABSENT - Bruno, Cathcart, Clement, Dexter, Farnsworth, Foss, Hillock, Hogle, Kutasi, Martin, H.; Martin, J.; Nickerson, Ott, Pendleton, Simoneau, Strout, Tardy, The Speaker.

Yes, 83; No, 50; Absent, 18; Paired, 0; Excused, 0. 83 having voted in the affirmative and 50 in the negative, with 18 being absent, the Majority "Ought to Pass" Report was accepted.

The Bill read once. Committee Amendment "A" (S-437) was read by the Clerk and adopted. The Bill assigned for second reading later in today's session.

At this point, the Sergeant-at-Arms escorted Elaine Beal, Chairman of the Maine Farm Bureau Women's Committee, to the rostrum to make a presentation to the Speaker.

ELAINE BEAL: I am Elaine Beal, the Chairman of the Maine Farm Bureau Women's Committee. One of the activities that the committee does is to promote agriculture throughout the state and today is one of those days. We have some goodies out in the rotunda for everyone. Also, we give a basket of Maine products to the Governor, the President of the Senate and the Speaker of the House.

We would like to thank the legislature for supporting agriculture this past year. It is important to Maine's economy and the farmers also keep Maine beautiful. Thank you. (applause)

The following items were taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative TREAT from the Committee on Human Resources on Bill "An Act to Clarify and Expand the Driver Education and Evaluation Programs in the State" (H.P. 1381) (L.D. 1868) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-869)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-869) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

CONSENT CALENDAR

First Day

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

(H.P. 1107) (L.D. 1494) Bill "An Act to Require the Utilization of an Owner's Representative on State Government Construction Contracts" Committee on State & Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-871)

(H.P. 1445) (L.D. 1972) Bill "An Act to Revise the Duties of the Superintendent of the Pineland Center" (Governor's Bill) Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-870)

There being no objections, the above items were ordered to appear on the Consent Calendar of later in today's session under the listing of Second Day.

(H.P. 1351) (L.D. 1817) Bill "An Act Creating the York County Budget Advisory Committee" Committee on State & Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-872)

On motion of Representative GEAN of Alfred, tabled pending acceptance of the Committee Report and later today assigned.

SENATE PAPERS

The following Joint Order: (S.P. 762)

ORDERED, the House concurring, that Bill "An Act to Modify the Taxation of Leases on Automobiles," S.P. 545, L.D. 1570, and all its accompanying papers, be recalled from the legislative files to the Senate.

Came from the Senate, read and passed.

Was read.

Two-thirds vote of the members present being necessary, a total was taken. 77 having voted in favor of the same and 19 against, the Joint Order was passed in concurrence.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **Legal Affairs** reporting **"Ought Not to Pass"** on Bill "An Act to Ensure Appropriate and Equitable Penalties for Violation of Electoral Laws" (H.P. 1311) (L.D. 1766)

Signed:

Senator: HALL of Piscataquis

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

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-830) on same Bill.

Signed:

Senators: HANDY of Androscoggin
CAREY of Kennebec

Representatives: DAGGETT of Augusta
BOWERS of Washington
GAMACHE of Lewiston

Reports were read.

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

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

Divided Report

Majority Report of the Committee on **Education** reporting **"Ought Not to Pass"** on Bill "An Act Relating to Conferring of Degrees by the Research Institute for Semiological Mathematics" (H.P. 594) (L.D. 809)

Signed:

Senator: AMERO of Cumberland

Representatives: AULT of Wayne
OLIVER of Portland
PFEIFFER of Brunswick
SIMONDS of Cape Elizabeth
NORTON of Winthrop
SMALL of Bath

Minority Report of the same Committee reporting **"Ought to Pass"** on same Bill.

Signed:

Senators: LAWRENCE of York
O'DEA of Penobscot

Representatives: PINETTE of Fort Kent
STEVENS of Orono
CLOUTIER of South Portland
MITCHELL of Vassalboro

Reports were read.

Representative MITCHELL of Vassalboro moved that the House accept the Minority **"Ought to Pass"** Report.

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

Divided Report

Majority Report of the Committee on **Taxation** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-837) on Bill "An Act to Provide Equity in the Laws Concerning Tax Exemptions for Veterans" (H.P. 1413) (L.D. 1923)

Signed:

Senators: CAREY of Kennebec
SUMMERS of Cumberland
BALDACCI of Penobscot

Representatives: HOGLUND of Portland
MURPHY of Berwick
SIMONEAU of Thomaston
DIPIETRO of South Portland
SPEAR of Nobleboro
RAND of Portland
TARDY of Palmyra
DORE of Auburn
FARNSWORTH of Hallowell

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

Signed:

Representative: NADEAU of Saco

Reports were read.

Representative NADEAU of Saco moved that the House accept the Minority **"Ought Not to Pass"** Report.

On further motion of the same Representative, tabled pending his motion to accept the Minority **"Ought Not to Pass"** Report and later today assigned.

Divided Report

Majority Report of the Committee on **Appropriations & Financial Affairs** reporting **"Ought Not to Pass"** on

RESOLUTION, to Amend the Constitution of Maine Regarding the Rainy Day Fund (H.P. 234) (L.D. 302)

Signed:

Senators: PEARSON of Penobscot
TITCOMB of Cumberland

Representatives: CHONKO of Topsham
RYDELL of Brunswick
HICHBORN of LaGrange
CARROLL of Gray
MICHAUD of East Millinocket
KERR of Old Orchard Beach
POULIOT of Lewiston

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-843) on same RESOLUTION.

Signed:

Senator: FOSTER of Hancock

Representatives: FOSS of Yarmouth
MacBRIDE of Presque Isle
REED of Falmouth

Reports were read.

Representative CHONKO of Topsham moved that the House accept the Majority "Ought Not to Pass" Report.

On further motion of the same Representative, tabled pending her motion to accept the Majority "Ought Not to Pass" Report and specially assigned for Wednesday, March 23, 1994.

Divided Report

Majority Report of the Committee on Energy & Natural Resources reporting "Ought Not to Pass" on Bill "An Act to Refund Money Collected from the Disposal Fee on Major Appliances and Tires to Municipalities" (H.P. 1314) (L.D. 1776)

Signed:

Senators: LUDWIG of Aroostook
LAWRENCE of York
CIANCHETTE of Somerset

Representatives: MARTIN of Eagle Lake
COLES of Harpswell
MARSH of West Gardiner
CONSTANTINE of Bar Harbor
POULIN of Oakland
MITCHELL of Freeport
WENTWORTH of Kennebunkport
ANDERSON of Woodland
GOULD of Greenville

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-842) on same Bill.

Signed:

Representative: LORD of Waterboro

Reports were read.

Representative MITCHELL of Freeport moved that the House accept the Majority "Ought Not to Pass" Report.

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

Divided Report

Majority Report of the Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-845) on Bill "An Act to License Athletic Trainers" (H.P. 536) (L.D. 720)

Signed:

Senators: CIANCHETTE of Somerset
BUSTIN of Kennebec

Representatives: VIGUE of Winslow
HILLOCK of Gorham
THOMPSON of Lincoln
REED of Dexter
CLEMENT of Clinton
LIBBY of Kennebunk
HOGLUND of Portland

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

Signed:

Senator: MARDEN of Kennebec

Representatives: CAMERON of Rumford
WINN of Glenburn
ST. ONGE of Greene

Reports were read.

Representative HOGLUND of Portland moved that the House accept the Majority "Ought to Pass" Report.

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

Divided Report

Majority Report of the Committee on State & Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-849) on Bill "An Act to Separate Peaks Island and Certain Other Islands in Casco Bay from the City of Portland" (EMERGENCY) (H.P. 1082) (L.D. 1448)

Signed:

Senator: BERUBE of Androscoggin

Representatives: JOSEPH of Waterville
KILKELLY of Wiscasset

GRAY of Sedgwick
 AHEARNE of Madawaska
 LOOK of Jonesboro
 BENNETT of Norway
 YOUNG of Limestone

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

Signed:

Senators: BUTLAND of Cumberland
 ESTY of Cumberland

Representatives: DUTREMBLE of Biddeford
 ROWE of Portland
 WALKER of Blue Hill

Reports were read.

Representative JOSEPH of Waterville moved that the House accept the Majority **"Ought to Pass"** Report.

On further motion of the same Representative, tabled pending her motion to accept the Majority **"Ought to Pass"** Report and specially assigned for Wednesday, March 23, 1994.

Divided Report

Majority Report of the Committee on Legal Affairs reporting **"Ought Not to Pass"** on Bill "An Act to Assist in Crime Prevention" (H.P. 1041) (L.D. 1393)

Signed:

Senators: HALL of Piscataquis
 HANDY of Androscoggin
 CAREY of Kennebec

Representatives: DAGGETT of Augusta
 BOWERS of Washington
 GAMACHE of Lewiston
 TRUE of Fryeburg

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-855) on same Bill.

Signed:

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

Reports were read.

Representative DAGGETT of Augusta moved that the House accept the Majority **"Ought Not to Pass"** Report.

On further motion of the same Representative, tabled pending her motion to accept the Majority **"Ought Not to Pass"** Report and later today assigned.

Divided Report

Majority Report of the Committee on State & Local Government reporting **"Ought Not to Pass"** on RESOLUTION, Proposing An Amendment to the Constitution of Maine to Provide for the Election of a Lieutenant Governor and to Provide for Succession to the Office of Governor (H.P. 1422) (L.D. 1936)

Signed:

Senators: ESTY of Cumberland
 BERUBE of Androscoggin
 BUTLAND of Cumberland

Representatives: JOSEPH of Waterville
 GRAY of Sedgwick
 DUTREMBLE of Biddeford
 LOOK of Jonesboro
 BENNETT of Norway
 YOUNG of Limestone

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-856) on same RESOLUTION.

Signed:

Representatives: AHEARNE of Madawaska
 ROWE of Portland
 WALKER of Blue Hill
 KILKELLY of Wiscasset

Reports were read.

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

On further motion of the same Representative, tabled pending her motion to accept the Majority **"Ought Not to Pass"** Report and specially assigned for Wednesday, March 23, 1994.

Divided Report

Majority Report of the Committee on State & Local Government reporting **"Ought Not to Pass"** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Recall of Persons Holding Elective Civil Offices (H.P. 1402) (L.D. 1911)

Signed:

Senators: BERUBE of Androscoggin
 ESTY of Cumberland
 BUTLAND of Cumberland

Representatives: JOSEPH of Waterville
 GRAY of Sedgwick
 DUTREMBLE of Biddeford
 ROWE of Portland
 WALKER of Blue Hill
 LOOK of Jonesboro
 BENNETT of Norway
 YOUNG of Limestone

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-857) on same RESOLUTION.

Signed:

Representatives: KILKELLY of Wiscasset
AHEARNE of Madawaska

Reports were read.

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

On further motion of the same Representative, tabled pending her motion to accept the Majority "Ought Not to Pass" Report and specially assigned for Wednesday, March 23, 1994.

By unanimous consent, unless previous notice is given to the Clerk of the House by some member of his or her intention to move reconsideration, the Clerk be authorized today to send to the Senate, thirty minutes after the House recesses, all matters passed to be engrossed in concurrence and all matters that require Senate concurrence; and that after such matters have been so sent to the Senate by the Clerk, no motion to reconsider will be allowed.

The House recessed until 4:00 p.m.

After Recess

The following items were taken up out of order by unanimous consent:

CONSENT CALENDAR

Second Day

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

(H.P. 1218) (L.D. 1637) Bill "An Act Regarding Insurance Coverage for Mental Illness"

(H.P. 1397) (L.D. 1906) Resolve, Authorizing the State to Release its Interest in Certain Real Property in Belfast

(H.P. 1398) (L.D. 1907) Bill "An Act to Authorize an Increase in the Holdings of the Farmington Home for Aged People" (EMERGENCY)

(H.P. 1439) (L.D. 1965) Bill "An Act to Facilitate Government Investment in Mutual Funds"

(H.P. 681) (L.D. 923) Bill "An Act to Amend the Underground Oil Storage Tank Replacement Fund" (EMERGENCY) (C. "A" H-868)

(H.P. 1106) (L.D. 1493) Bill "An Act to Enable the Creation of the Volunteer Social Workers' Project" (C. "A" H-848)

(H.P. 1188) (L.D. 1585) Bill "An Act to Clarify Certain Provisions of Maine's Hospital Payment System" (C. "A" H-834)

(H.P. 1235) (L.D. 1662) Bill "An Act to Study Eagle Mortality in Maine and Its Relationship to Human Health" (C. "A" H-844)

(H.P. 1239) (L.D. 1666) Bill "An Act to Permit Electric Utilities Greater Flexibility in Adjusting Electric Utility Prices to Meet Changing Market Conditions" (C. "A" H-862)

(H.P. 1245) (L.D. 1672) Bill "An Act to Provide Assistance to Homeowners Who Have Faulty Septic Systems" (C. "A" H-866)

(H.P. 1266) (L.D. 1693) Bill "An Act to Revise the Eastport Port Authority Charter" (C. "A" H-860)

(H.P. 1269) (L.D. 1696) Bill "An Act to Create the Seal Harbor Water District" (C. "A" H-841)

(H.P. 1309) (L.D. 1764) Bill "An Act to Preserve Productive Forests" (EMERGENCY) (C. "A" H-846)

(H.P. 1313) (L.D. 1775) Bill "An Act to Establish a Technical College in York County" (C. "A" H-851)

(H.P. 1320) (L.D. 1782) Bill "An Act to Clarify the Tax-exempt Status of Nonprofit Rental Housing" (EMERGENCY) (C. "A" H-831)

(H.P. 1349) (L.D. 1815) Bill "An Act to Amend the Tree Growth Tax and Open Space Voluntary Withdrawal Laws" (C. "A" H-832)

(H.P. 1362) (L.D. 1841) Bill "An Act to Create Retirement Alternatives" (EMERGENCY) (C. "A" H-867)

(H.P. 1383) (L.D. 1882) Resolve, to Establish Minimum Standards for Adult and Family Shelters in the State (C. "A" H-829)

(H.P. 1396) (L.D. 1905) Bill "An Act to Amend the General Assistance Standard of Need" (C. "A" H-863)

(H.P. 1406) (L.D. 1915) Bill "An Act to Establish the Somerset County Advisory Budget Committee" (C. "A" H-852)

(H.P. 1428) (L.D. 1953) Bill "An Act to Designate Certain Lands under the Constitution of Maine, Article IX, Section 23" (C. "A" H-858)

(H.P. 1434) (L.D. 1961) Bill "An Act to Implement the Recommendations of the Maine Dairy and Nutrition Council and the Maine Dairy Promotion Board" (C. "A" H-861)

(H.P. 1440) (L.D. 1966) Bill "An Act to Create the Blaine House Commission" (Governor's Bill) (C. "A" H-840)

No objections having been noted at the end of the Second Legislative Day, the House Papers were Passed

to be Engrossed or Passed to be Engrossed as Amended and sent up for concurrence.

(H.P. 1071) (L.D. 1437) Resolve, to Require That Doctors of Chiropractic Be Included as Select Physicians in the Maine State Employees Health Plan (EMERGENCY) (C. "A" H-859)

On motion of Representative PINEAU of Jay, was removed from Second Day Consent Calendar.

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-859) was read by the Clerk and adopted.

On motion of Representative PINEAU of Jay, tabled pending passage to be engrossed and specially assigned for Wednesday, March 23, 1994.

(H.P. 1096) (L.D. 1483) Bill "An Act Regarding Cable Television" (C. "A" H-836)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-836) was read by the Clerk.

On motion of Representative MARTIN of Eagle Lake, tabled pending adoption of Committee Amendment "A" (H-836) and later today assigned.

(H.P. 1369) (L.D. 1853) Bill "An Act to Amend the Growth Management Laws Concerning Dimensional Variances" (C. "A" H-827)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-827) was read by the Clerk.

Representative MARTIN of Eagle Lake presented House Amendment "A" (H-875) to Committee Amendment "A" (H-827) which was read by the Clerk and adopted.

Committee Amendment "A" (H-827) as amended by House Amendment "A" (H-875) thereto was adopted. The Bill assigned for second reading Wednesday, March 23, 1994.

BILLS IN THE SECOND READING

As Amended

Bill "An Act Concerning Commercial Divers" (H.P. 973) (L.D. 1304) (C. "A" H-835)

Bill "An Act to Authorize Use of Civil Administrative Penalty Authority and Administrative Order Authority Against Violation of Federal and State Drinking Water Laws, Regulations and Rules" (EMERGENCY) (H.P. 1329) (L.D. 1792) (C. "A" H-864)

Bill "An Act to Strengthen the Maine Bottle Deposit Laws" (H.P. 1343) (L.D. 1810) (C. "A" H-839)

Bill "An Act Authorizing the Commissioner of Inland Fisheries and Wildlife to Award 5 Moose Hunting Permits through Public Auction to Fund Youth Conservation Education Programs" (S.P. 661) (L.D. 1829) (Governor's Bill) (C. "A" S-437)

Bill "An Act to Implement the Recommendations of the Commission to Study the Statutory Procedures for Local Property Tax Abatement" (H.P. 1387) (L.D. 1886) (C. "A" H-853)

Bill "An Act to Allow for Reciprocal Licensure for Electricians in the State" (H.P. 1400) (L.D. 1909) (C. "A" H-847)

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

Bill "An Act to Increase the County Share of the Real Estate Transfer Tax" (H.P. 464) (L.D. 601) (C. "A" H-854)

On motion of Representative MITCHELL of Vassalboro, was set aside.

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

SENATE PAPERS

The following Joint Resolution: (S.P. 756)

JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ACT EXPEDITIOUSLY ON THE NATIONAL HIGHWAY SYSTEM

WE, your Memorialists, the Members of the One Hundred and Sixteenth Legislature of the State of Maine, now assembled in the Second Regular Session, most respectfully present and petition the members of the Congress of the United States as follows:

WHEREAS, a modern, well-maintained, efficient and interconnected transportation system is vital to the economic growth, health and global competitiveness of our State and the entire nation; and

WHEREAS, the highway network is the backbone of a transportation system that provides for intermodal connectivity and the movement of people and goods; and

WHEREAS, it is critical to effectively address highway transportation needs through appropriate transportation plans and program investments; and

WHEREAS, the federal Intermodal Surface Transportation Efficiency Act of 1991 established the concept of a 155,000-mile National Highway System, which includes the Interstate System; and

WHEREAS, on December 9, 1993, the United States Department of Transportation transmitted to Congress

a proposal for a 159,000-mile National Highway System, which identified 104 port facilities, 143 airports, 191 railroad-truck terminals, 321 Amtrak stations and 319 transit terminals; and

WHEREAS, the Intermodal Surface Transportation Efficiency Act of 1991 requires that National Highway System and Interstate System maintenance funds may not be released to the states if the National Highway System is not approved by September 30, 1995; and

WHEREAS, the uncertainty associated with the future of the National Highway System precludes the possibility of the State to effectively undertake and properly develop the necessary planning and programming activities; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the Congress of the United States enact legislation to designate and approve the National Highway System no later than September 30, 1994; and be it further

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

Came from the Senate read and adopted.

Was read and adopted in concurrence.

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative HOGLUND from the Committee on Business Legislation on Bill "An Act to Clarify Plumbing Permit Fees" (EMERGENCY) (H.P. 1215) (L.D. 1634) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-876)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-876) was read by the Clerk and adopted and the bill assigned for second reading Wednesday, March 23, 1994.

CONSENT CALENDAR

First Day

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

(S.P. 712) (L.D. 1927) Bill "An Act to Remove the Sunset Provision from the Limitation on Liability for Recycling Activities by Municipalities and Regional Associations" (EMERGENCY) Committee on Energy & Natural Resources reporting "Ought to Pass"

(S.P. 582) (L.D. 1626) Bill "An Act Concerning Health Insurance" Committee on Banking & Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-441)

(H.P. 1015) (L.D. 1361) Bill "An Act to Define Responsibilities of the Commission on Biotechnology and Genetic Engineering" Committee on Housing & Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (H-877)

(H.P. 1437) (L.D. 1963) Resolve, to Enhance the Development of Alternative Uses of Maine Agriculture and Forestry Products Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (H-874)

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, March 23, 1994 under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(H.P. 1107) (L.D. 1494) Bill "An Act to Require the Utilization of an Owner's Representative on State Government Construction Contracts" (C. "A" H-871)

(H.P. 1445) (L.D. 1972) Bill "An Act to Revise the Duties of the Superintendent of the Pineland Center" (Governor's Bill) (C. "A" H-870)

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

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Clarify and Expand the Driver Education and Evaluation Programs in the State" (H.P. 1381) (L.D. 1868) (C. "A" H-869)

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.

CONSENT CALENDAR

First Day

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

(H.P. 1312) (L.D. 1767) Bill "An Act to Acquire Lake and Ocean Frontage to be Preserved for the Public" Committee on Energy & Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-879)

(H.P. 1328) (L.D. 1791) Bill "An Act to Prohibit the Location of New Groundwater Drinking Water Supply Wells in Close Proximity to Potential Contamination Sources" Committee on Energy & Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-878)

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, March 23, 1994 under the listing of Second Day.

Representative MICHAUD of East Millinocket assumed the Chair.

On motion of Representative KILKELLY of Wiscasset, the House reconsidered its action whereby Bill "An Act to Create the Great Salt Bay Utility District" (H.P. 1336) (L.D. 1799) (C. "A" H-825) was passed to be engrossed.

On further motion of the same Representative, tabled pending passage to be engrossed and specially assigned for Wednesday, March 23, 1994.

The Chair laid before the House the following items which were tabled earlier in today's session:

House Report - "Ought to Pass" as amended by Committee Amendment "A" (H-809) - Committee on State and Local Government on Bill "An Act Regarding Access to Property via Discontinued Roads" (H.P. 1238) (L.D. 1665) which was tabled by Representative JOSEPH of Waterville pending the motion of Representative LARRIVEE of Gorham to Substitute the Bill for the Report.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: The motion before you is to substitute the bill for the report. The bill was properly before you and accepted by the Legislative Council just prior to the session. However, this is an attempt to kill the bill under Joint Rule 37 and I urge you to vote against the pending motion to substitute the bill for the report.

The amendment which replaces the bill is a good piece of legislation that was worked on with the help of attorneys skilled in this area and I would like an opportunity to discuss the bill with you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gorham, Representative Larrivee.

Representative LARRIVEE: Mr. Speaker, Men and Women of the House: I did make the motion to substitute the bill for the report and the good Representative from Waterville is absolutely correct, it is my intention to ask for a ruling (should this

motion prevail) pursuant to Joint Rule 37. I remember this issue, I have a copy of the bill that was presented last year to provide access to landlocked properties and I believe that this is the same issue that we talked about and discussed and dismissed last year and would like a ruling from the Chair. I will be glad to discuss the merits of the bill if we get to that point, but I do believe that it is improperly before us.

The SPEAKER PRO TEM: The Chair will order a vote. The pending question before the House is the motion of Representative Larrivee of Gorham to substitute the Bill for the Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

44 having voted in the affirmative and 63 in the negative, the motion did not prevail.

Subsequently, the Committee Report was accepted. The Bill read once. Committee Amendment "A" (H-809) was read by the Clerk.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gorham, Representative Larrivee.

Representative LARRIVEE: Mr. Speaker, Men and Women of the House: I would request a division on passage.

I would like to speak to the motion that is pending before you. I would ask that the members of the House vote against this motion currently before us. I realize that this was a unanimous committee report, however there are some very specific phases of this bill which I think you should take a very close look at.

To begin with, what we are talking about here is a method by which people who own landlocked property can get access out across the property of the person on the roadfront. This has always been a contentious issue since 1965 when we passed the original legislation regarding landlocked property. Now you cannot sell a piece of property which has the effect of landlocking property. However, prior to 1965, those kinds of things did occur.

For purposes of this, I am going to use two people, Mr. Landlocked and a Mr. Roadfront, just so you will understand the divisions of these people. Under the provisions of this bill, if Mr. Landlocked can determine that at any time prior to 1965 there ever was any kind of a county way from his landlocked property out to the street — now this could be something like an 1800's map that showed a county way out across a piece of property — if in any way Mr. Landlocked can determine that there ever was a road there, this bill grants Mr. Landlocked the right (and I believe probably unconstitutionally) of eminent domain to say to Mr. Roadfront, there used to be a road here and now I wish to reestablish this road and I am now going to pay you damages and I am going to reestablish this road. The bill specifically says the purposes for which a person can reestablish this road include, but are not limited to, subsequent subdivision of the property. This allows Mr. Landlocked, if he determines that he wants to subdivide that property, to create the easement that he has always wanted out across Mr. Roadfront's property. Mr. Roadfront does have a right of appeal. However, this bill limits that right of appeal to only two issues and that is the existence or location of the old county way and the reasonableness of the damages. Therefore, if you are Mr. Roadfront, you have a house on that property and there used to be a county way which is now right

beside your house, Mr. Landlocked now has a right to create that right-of-way across your property and you can't say, no, I don't want you to run out across this.

The concern that I have is that there is a carefully balanced process now in place through the courts for people who wish to go and create easements out across property and to create the access to the landlocked property. What this piece of legislation does, in my opinion, is swing the balance and provide a right to one of those parties and that is that Mr. Landlocked now has an additional right. I believe that is patently unfair, these issues ought to be balanced and I would urge you to reject the pending motion.

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

Representative JOSEPH: Mr. Speaker, Women and Men of the House: If all these terrible things are going to happen to those persons who own landlocked property, I don't believe the State and Local Government and the attorney who actually is an expert on this issue from the Maine Municipal Association, would have worked so long and hard with us.

I find it extremely curious since this bill has been before this body for a few months (and we had subsequent work sessions on this bill) that no objection was made by anyone within this body about this particular bill and certainly the committee would have addressed those concerns.

I would like to make the point that as we listened to those persons who used the process that is currently in effect at great personal cost to them of thousands and thousands of dollars that they still were not satisfied by the court process and we tried very hard to rectify that. One of the questions of one of the committee members was, "Is this a single issue? Is this the only case?" However, there were three or four persons there, so they said no. However, in our research we found that there are hundreds of pieces of property in this state that are landlocked with no resolution to those persons.

Yes, prior to 1965 there is a question and most people panic when you talk about 1965 — however, we need to find resolution. That does not prevent some deceased person leaving to his or her heir this piece of property and now all of a sudden they become a new owner to this piece of property and are not able to access this piece of property. This bill does not decide to build a highway to this landlocked piece of property. This says just simply "in a discontinued road or a discontinued county road or another type of road" (which I can't think of at this point) "that there would be single access to this property" and there is great criteria.

The Representative from Gorham raises a good question about the constitutionality of this. We were told by the Attorney General's Office that, as any law, this certainly could be challenged, but when we were looking for a solution, we would have welcomed any member of this body or the other body in helping us to find that solution. We feel, as a committee in this unanimous committee report, that we have found a solution and we would like to see this challenged in the court process but it cannot be challenged in its current form.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gorham, Representative Larrivee.

Representative LARRIVEE: Mr. Speaker, Men and Women of the House: I certainly will apologize to

the chair of the committee that I was not aware it was before the committee and had I been I would have been more than glad to come down and speak to the committee about it. That is my oversight in the number of bills that are before us.

I would add to what the Representative said that there are a number of people who own landlocked pieces of property, but it is also true that there are a number of people who bought landlocked pieces of property and they bought them at bargain prices because there was no access and they are waiting out there. I think it is different in different parts of the state. In my part of the state, there is not much buildable land left. All of the nice pieces of property have been snatched up and houses have been built. What is left is the landlocked pieces of property and developers are very anxious to be able to see a profit on some of the landlocked pieces of property. Now, that is not true in all of the cases, there are cases which are the opposite. However, I think this is going to set a very dangerous precedent of allowing a right of anyone with a landlocked piece of property, who can show any kind of a way ever having been there, the right to take that and create a right-of-way out across Mr. Roadfront's property.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I agree wholeheartedly with the gentlelady from Gorham. Do we know what we are starting here, what precedent we are setting? There are many discontinued roads and I am a victim, there is one right next to my property. You own 100 acres out there, you sell the choice land in front for all the money you can get. Then you have this landlocked property in the back and it is swamp and you sell that for nothing. Then a developer comes along and breaks through this discontinued road — we have had that situation in Lisbon — this unscrupulous developer (I don't mind calling him unscrupulous, he is no friend of mine) turned around and found an old county road and we couldn't prove whether or not it had been discontinued. He barely plowed it through, passable, and set his own daughter one mile in down there and said to the school department, you go in there with a school bus — and we have to do it. This isn't building a new road now. A developer who puts in new streets and roads has to meet certain standards. But, if he takes an old discontinued road, all he or she has to do is to make it passable.

Now, if you want to turn around and saddle these towns and cities with these developers who are out there grabbing this landlocked property, set up a housing project in there and just punch a hole through the woods which was at one time a discontinued road and there is no way of proving — I am the one who found out the old road next to me was discontinued in 1902. Then I found out that over the years, they used to have a logging road going in there for lumbering. They could come back and say, this is it, but the gentleman who owns around me is a farmer, he won't let go. But there is a piece of land down in the swamp about a half a mile in, if somebody gets their hands on it, they will turn around and say we want to go into that old road and that is why when somebody else tried to go through there — I was on the board of selectmen — we found out we would have to spend close to a half a million dollars to keep that road up.

This is nothing but a bill for the developers who get a cheap piece of property landlocked in there, then they turn around and they punch a hole through the woods and say, this was a road at one time, the town must meet the standards for drainage and everything else. Let's not saddle these towns and cities, it is bad enough we are trying to stop the developers from going to these towns and cities but let's not take these old roads — and this is a rural state — we are not talking Lewiston and Portland now, the people from the rural areas think twice. What will happen — over the years, the Department of Transportation has rebuilt a lot of these old roads and they have abandoned certain areas, somebody will come back and say, I have a piece of property near Joe Brown, I will sell it to you for \$100 an acre, they will grab it. I saw it happen in Aroostook County, then they went in and broke it open and they came to the state and said this was a road at one time and you have got to keep it up.

I would ask Mr. Speaker, and I agree with the gentlelady from Gorham — if I am not mistaken, I may be completely wrong, but I thought we took care of this bill last year and what is it doing back in this session if it went to the first session? I think I would request a ruling along with the lady from Gorham whether or not this bill is properly before this body?

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

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: This bill seeks to address a very vexing problem in a different way than the legislature dealt with it last year. The problem is similar but the solution is different.

The problem that this bill seeks to address is that prior to 1965 there were people who owned land that became landlocked when municipalities and counties discontinued or abandoned roads. The land the right-of-way was on reverted to the abutting landowners and, hence, landlocked their property. Now, under common law, in many of these cases a person can go to court, spend \$15,000 or \$20,000 in legal fees and get a ruling under common law to get access to their property. The committee felt that this was a very burdensome process, it took a lot of time, it was unfair to the small landowner, not the developer, but the small landowner who needed to use it for agricultural or wood purposes and this bill sought to provide some solution to that problem.

My understanding when we were debating this in committee was that these folks that were landlocked really didn't have any process at the time that they were landlocked for getting damages and getting adequate compensation.

I had a conversation this past weekend with an individual who is sending me evidence that that understanding I had is wrong and that in fact, according to him, that there is a 1930 statute that did provide such relief. Because of that, I would ask a chance to review that information along with the members of the State and Local Government Committee and I would ask that someone table this bill one legislative day.

On motion of Representative WHITCOMB of Waldo, tabled pending adoption of Committee Amendment "A" (H-809) and specially assigned for Wednesday, March 23, 1994.

HOUSE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (H-773) - Committee on State and Local Government on RESOLUTION, Pursuant to Article IV, Part Third, Section 15 of the Constitution of Maine Calling a Constitutional Convention to Propose Amendments to the Constitution (H.P. 873) (L.D. 1187) which was tabled by Representative JOSEPH of Waterville pending the motion of Representative AHEARNE of Madawaska to accept the Minority "Ought to Pass" as amended Report.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I would ask that the members of this body consider accepting the Minority "Ought to Pass" Report.

This piece of legislation is a Resolution to permit the calling of a Constitutional Convention for the purpose of amending the Constitution. In many of your minds you may feel that this is a very radical move by this body and by this legislature, however the minority of the committee and myself did not think that.

I have done a great deal of research on pieces of legislation that have come to this body, Constitutional Amendments to be accepted or rejected, and many of them have to do with the size of the legislature and those kinds of "good government issues."

I believe that in many ways we are actually fooling or trying to fool or to trick the Maine public because many of us go out and talk about making the legislature smaller, changing the sessions and doing all of that sort of thing. In the past 20 years, it is shown in the research that I have, that either one body or the other turns down that piece of legislation.

I do not feel that this is a radical piece of legislation because currently in the past few years there has been significant public interest in making comprehensive changes in our basic governing document.

We all know that, yes, if we could get two-thirds vote in this body and two-thirds vote in the other body and then we send this out to the public that some of these proposals would be passed.

Again, I will repeat that I do not feel that we are being up-front and honest with the Maine people when we say that these things are truly possible.

I understand that the amendment before you does have a fiscal note and we might as well talk about it up-front, but this will actually provide the kind of government that Maine people want.

It comes to a point, I believe, that we need to remember that we are not the power by ourselves, that this is a government of the people and by the people and that we need to trust the people to make decisions about their Constitution, the shape and size of their government.

So, in this piece of legislation, it would say that there would be two delegates from each legislative district and these people would be non-partisan delegates. In fact, you and I would not be able to serve as delegates to a Constitutional Convention.

If you really believe that this is a radical idea, I need to explain to you that there are 14 other

states that do have Constitutional Conventions, all designed in what is appropriate for that state.

These people would meet and they would not deal with the Declaration of Rights or the Preamble, as you may call it, of the Maine Constitution but they may in fact decide to change the Constitution in any way that they decide as a group. What would happen next is that the Maine public would then (you and I) have to ratify those proposals. Also, in this amendment, the legislature could present competing measures to be voted on by the Maine public.

I was reading a book recently by Steven Covey and I noticed in one section of the book that it said the United States today is the fruit of a paradigm shift, the traditional concept of government for centuries had been a monarchy to the divine right of kings, then a different paradigm was developed, government of the people, by the people and for the people and a Constitutional democracy was born, unleashing tremendous human energy and ingenuity and creating a standard of living of freedom and liberty, of influence and hope, unequalled in the history of the world.

I believe that we need to return that power to the people and we need to trust the very same voters that have elected you and I to make decisions about the Constitution that affects their very lives.

I would urge you to consider this because in fact this is the first time in 30 years that the State of Maine has discussed the question of a Constitutional Convention and whether or not we should have one.

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

Representative TRACY: Mr. Speaker, I would like to make a motion that we indefinitely postpone this bill and all its accompanying papers, L.D. 1187, and request a roll call.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, I question whether or not the Representative has made his motion?

The SPEAKER PRO TEM: Representative Martin is correct, the Representative said he "would like to" and that is not a motion.

The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Men and Women of the House: The pending question is the adoption of the "Ought to Pass" Report and I would like to discuss that motion.

I have been here, as most of you know and probably feel too long, but I have heard just about every amendment that came along the floor. It is always ironic to me to hear the same people make motions, offer amendments to the Constitution knowing full-well that they are going nowhere, whether it be unicameral, lowering the size of the Legislature, the numbers of the members of the House, changing the process of electing the Secretary of State, Attorney General and all of the others.

We all know where they are going because depending which political party happens to be in control, they want to keep the slots. So, when the Democrats were not in the majority in the early 60's, we presented amendments to make these positions all elected so then we could use them as campaign issues in the November elections against legislators.

After Republicans became the minority party, it reversed, so depending which political party you happen to be in at a given time, it makes the

determination as to whether or not these amendments are going to be introduced and how they are going to be supported and where they are going. And all the time, all this being done in the name of simply saying, we know what the public wants — we all know this, that if you put a single issue out to the voters of Maine without explanation which we rarely do, they tend to adopt it unless there is a great deal of publicity. That is a fact of life.

The Maine Constitution has been amended and we are getting close to 200 amendments since 1819. So, I decided to offer this process for a very simple reason, that you can now indicate whether or not you really believe that the people of Maine ought to be able to amend their Constitution, once and for all.

After this day, whichever way you vote (and that is your choice) but if you vote against this, I hope you never go back and tell your constituents that you are in favor of amending the Constitution because you will have denied them the right to make that choice to amend the entire Constitution any way the people of Maine feel like it.

It is very simple, so if you believe that the voters of this state ought to amend the Constitution and not the politicians, you and I, then you vote for it. If you believe that the politics of the day are to control the makeup of the Constitution, then you ought to vote to kill this bill. To me, it doesn't matter what you do because it won't matter either way, from my point of view, but I thought it was a perfect way to eventually put this issue to bed and you can make your mind up as to whether or not you want to let the people of Maine control their own destiny or whether you want to continue to do it yourself.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I ask each of you to look up the amendment, House Amendment 773. This is the Committee Amendment to this particular bill. It does call for a Constitutional Convention.

We have heard many times a requirement for Constitutional Conventions but let me warn you, once you open up a convention for the purpose of making changes to the Constitution, you open it wide open and you never know what is coming out of it. That is my concern.

When this came before us this year, I wanted to know what was behind this, what exactly does somebody want to do. The response I got was to change some forms of government within the State of Maine which I think has worked very well for the State of Maine over the 200 years and I think that it is a very risky business to do this. As you read this amendment, if you haven't already read it, it says, "It proposes individual amendments proposed by the legislature subject to ratification by the people and a Constitutional Convention called by the legislature for the purpose of revising the Constitution." Then it goes on, this is the preamble, "Whereas the Constitutional Convention offers a better opportunity to effect comprehensive change in the Constitution of Maine..." and then another, "Whereas there is significant public interest in making comprehensive changes "

Maybe you have heard of significant public interest but I haven't and I question that many of us have heard that.

There is a method now of making amendments to the Constitution, which we do from time to time.

I would agree that many times these amendments are perhaps ill thought out and we would be better off if they were not there or we didn't have so many.

Then it goes on and says "It is necessary for the Legislature to immediately approve legislation calling a Constitution to convention in order for Constitutional revision to be accomplished in a timely manner." I very much question that.

Then again, "Whereas in the judgment of the Legislature these facts create an emergency within the meaning of the Constitution."

As you read on in this amendment, you will find how it is planned to take place. It designs it to have 302 delegates and anyone who holds any of the following positions on the date of the election of delegates or has held any of the positions within one year preceding that date may not serve as a delegate to the Convention and they are named, Governor, Legislator, candidate for election to the Legislature or the office of Governor, sitting or active/retired Justice of the Supreme Judicial Court, sitting or active/retired Justice of the Superior Court, sitting or active/retired Judge of the District Court, officers chosen by the Legislature under the Constitution or the laws of this state or a major policy influencing position listed" and on it goes.

"And the charge is to review and analyze the Constitution of Maine and to draft the Resolution or Resolutions proposing revisions to the Constitution of Maine that the Convention determines necessary. The convention may recommend alterations to the Constitution of Maine on Articles 2 through 10 and they recommend additional articles necessary to effect desirable changes in the fundamental structure and organization of straight government."

And then it goes on -- over on page 3, beginning on line 6, "The Convention has full power over the proceedings of the Convention including the discipline of its delegates and may provide for compensation of the employees, printing of journals and other documents and recording of its debates."

Under the ratification section, "Any revision or amendment to the Constitution of Maine recommended by the Convention must be ratified by a majority of the electors voting at a statewide election held November 7, 1995." And so it is.

Let's look at the fiscal note. We are talking about the per diem expenses of delegates which will require approximately \$31,710 for each day of its deliberations and, if the delegates meet for approximately 100 meetings, the delegate costs could exceed \$3,100,000. This total cost, as well as the cost of staffing the convention and significant operation costs, cannot be determined at this time.

Ladies and gentlemen, I ask you, look at this situation, do we really need this legislation at this time? I think not. I rely on your very good judgment.

Representative Tracy of Rome moved that the Bill and all accompanying papers be indefinitely postponed.

Representative Look of Jonesboro requested a roll call vote.

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

Representative RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House: I think it is important to focus on what is being done here. This is a Constitutional Convention which by definition with the insertion of a phrase in the Constitution of the State of Maine has the capacity to change or undo years of legislative history in a super law that will affect us all. Members of this body may not serve in a Constitutional Convention but municipal officials can, lawyers can, lobbyists can, those of particular special interests can, and they will know in the election confusion that we face this coming fall that it may not be too difficult to get elected to such a Constitutional Convention when the usual local candidates are not present on the ballot. They will know when they participate in that Constitutional Convention that if they can work their will at the leadership of that Convention and can change a phrase or two, they can reverse legislative history and change fundamental law and reverse the public policy of the State of Maine by effecting the Constitution.

On the one hand, I don't expect it to go in terms of the response of the people of the State of Maine to it because I think they will recognize what a serious disruption it can cause, but on the other hand, I think we should not focus on other issues which may or may not be important that surround the size of this issue. We must focus on the fact that a super law environment is being proposed in the kind of wide body of 302 people, effective lawyers and lobbyists and selected folk can target in and change small areas of the Constitution and dramatically impact the laws of the State of Maine.

I think this is very serious business and I urge you to indefinitely postpone this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: Just three or four basic points. First of all, people are worried about the costs -- we ought to be, but we ought never to forget that democracy is not an inexpensive form of government. We demonstrate it here every single year.

Second, it is whether or not we believe that the general public has a right to determine their form of government, once and for all.

Third, it is very simple whether or not we will continue to amend the Constitution or try to every single year by simply offering amendments, knowing full-well that they will go nowhere because the average citizen has no input and we are not giving that input to them.

This excludes politicians per se for that very reason. Remember that this is not a new phenomena, it has happened in every state in this country for the most part. They have redrafted their Constitutions.

Finally, the final draft is prepared under the basis of this provision and goes back to the voters of Maine for their approval. To me, that is the safeguard, the people will make the final decision. I do not understand why we have to be scared of the people who have elected us.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I take offense to some of the remarks of the Representative from Eagle Lake. I, like many of my colleagues, I don't believe, vote or introduce legislation to amend the Constitution purely for political means or purely to campaign upon and I think that premise is flawed. Beyond that point, I think when we examine each and every Constitutional Amendment, one at a time, we give it an opportunity to have a full airing. We have a public hearing which is advertised in which members of the public have specific opportunity to testify for or against or neither for or against in our committees, unless it is Energy, and you don't get neither for or against. I apologize for that, that was not meant as a shot at the former Speaker, that is a little joke with Representative Jacques and Representative Anderson.

Each amendment will have an opportunity to be aired publicly and each point spoken about. It doesn't make any sense to call a Constitutional Convention when we can do that right here. We can do it piece by piece and do it through a good public hearing system.

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

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: I am surprised at some element of hypocrisy by all of us sitting here in this body — in my five years on the State and Local Government Committee, there have been a number of Constitutional Amendments that have come before us where people have taken various positions on those Constitutional Amendments, knowing full-well that (1) you could not get two-thirds vote or (2) that the other body would turn them down.

I truly am somewhat surprised at our arrogance that we feel that the people of Maine are not able to write a Constitution that would pertain to the needs of today. If you were to write a Constitution about your own behavior, your goals, where you wanted to be five years from now, or whatever it is, you would have to change that Constitution regularly in order to meet your personal needs of the day. I believe that as we talk about changing the Constitution, deliberating on whether or not we should elect an Attorney General, whether or not the Treasurer of the State of Maine should be elected, whether or not the Secretary of State should be elected, whether or not we should have a Lieutenant Governor, who would succeed the Governor of this state, I believe that each of us know as we vote yea or nay on those particular items that these bills are going nowhere. Yes, there is a high cost to this Constitutional Convention, but there is another cost, the cost of time and the cost of money when the legislature deliberates on these issues in debate and in committee. I truly don't understand the suspicion of some people who would feel that there is something terribly wrong about this. I think this is democracy in its purest form and this state adopted a Constitution that was very much like the Commonwealth of Massachusetts. I think that this is a good time for the people of the State of Maine to draw up proposals changing their Constitution, but not the Declaration of Rights which are in Article I of the Constitution, to meet the needs of the next century,

the 1990's and for the needs of the people of the State of Maine.

So yes, I understand your concerns, yes I had to think about this for more than a year and the more I think about it, the more I think it is a good idea.

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

Representative BOWERS: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to support the pending motion. I do not (right now) see any need to effect comprehensive change in our system of government, I do not see any need to effect comprehensive change, I don't even see any kind of need of protecting the public peace or the health and safety of this state. I think we have a good governing document. Occasionally, we want to make a change and I personally haven't put in anything for political reasons, I haven't put any Constitutional changes in yet, I may never.

Nobody has been calling my house and telling me that we have got to have a Constitutional Convention and I would like to hear about other people that have been called.

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

Representative MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I rise to commend the gentleman from Eagle Lake for sponsoring this measure. I acknowledge him for his courage and his vision and I mean those remarks sincerely. I think he hit it right on the nose when he said something like, if we don't trust the people, who do we trust? Right now, the public has virtually no access to the State Constitution except by begging us, their legislators.

As other members have spoken, it is virtually impossible to get a Constitutional Amendment passed here that effects a change because one body or the other refuses to pass it. For years, I have seen us pass a unicameral like change and of course the other body kills it and they will pass a reduced size of the House and of course we will kill it. I don't know if we should have a unicameral legislature, for instance, or we should reduce the size of the House or if we should expand the size of the House to 450 people like New Hampshire. Those are the kinds of questions that we need to have faith in, the people of the State of Maine, to bring it back to them. If we do not have that faith, then our legitimacy as a government has dissolved.

As uncomfortable and as scary as the idea is to me of having a Constitutional Convention, ultimately we need to decide where the power belongs and I say it belongs with the people. If we cannot trust the people, then we have nothing left.

Once again, I want to thank the gentleman from Eagle Lake for his courageous move.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is the motion of the Representative from Rome, Representative Tracy, that the bill and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 255

YEA - Adams, Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Birney, Bowers, Brennan, Bruno, Cameron, Campbell, Carroll, Cashman, Chase, Clukey, Coles, Cote, Cross, Dipietro, Donnelly, Dore,

Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farren, Fitzpatrick, Foss, Gould, R. A.; Gray, Greenlaw, Hatch, Heeschen, Heino, Hoglund, Holt, Jacques, Jalbert, Johnson, Joy, Ketterer, Kneeland, Kontos, Larrivee, Lemont, Libby Jack, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Mitchell, E.; Murphy, Nadeau, Nash, Nickerson, Norton, Oliver, Ott, Paradis, P.; Pendleton, Pfeiffer, Pinette, Plowman, Poulin, Rand, Reed, G.; Reed, W.; Richardson, Robichaud, Rotondi, Rowe, Rydell, Saint Onge, Saxl, Skoglund, Small, Spear, Stevens, K.; Swazey, Tardy, Taylor, Thompson, Townsend, L.; Tracy, Treat, True, Tufts, Vigue, Walker, Wentworth, Whitcomb, Winn, Zirkilton.

NAY - Ahearne, Aliberti, Beam, Bennett, Carleton, Caron, Chonko, Clark, Clement, Cloutier, Coffman, Constantine, Dexter, Farnum, Gamache, Gean, Hale, Hichborn, Joseph, Kerr, Lemke, Marsh, Martin, J.; Melendy, Michael, Morrison, Plourde, Pouliot, Ruhlin, Simonds, Simoneau, Stevens, A.; Sullivan, Townsend, G.; Young.

ABSENT - Carr, Cathcart, Daggett, Hillock, Hussey, Kilkelly, Kutasi, Libby James, Martin, H.; Michaud, Mitchell, J.; O'Gara, Pendexter, Pineau, Ricker, Strout, Townsend, E.; The Speaker.

Yes, 98; No, 35; Absent, 18; Paired, 0; Excused, 0.
98 having voted in the affirmative and 35 in the negative, with 18 being absent, the Bill and all accompanying papers were indefinitely postponed and sent up for concurrence.

The following items were taken up out of order by unanimous consent:

CONSENT CALENDAR

First Day

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

(S.P. 240) (L.D. 733) Bill "An Act to Amend the Laws Governing Protective Custody" **Joint Select Committee on Corrections** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-469)

(S.P. 466) (L.D. 1458) Bill "An Act to Clarify the Role and Purpose of the Maine State Retirement System" (EMERGENCY) **Committee on Aging, Retirement & Veterans** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-475)

(S.P. 574) (L.D. 1616) Bill "An Act to Make Changes to the Public Utilities Commission Laws" **Committee on Utilities** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-465)

(S.P. 576) (L.D. 1620) Bill "An Act to Reinstate the State Eye Care Program" **Committee on Appropriations & Financial Affairs** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-477)

(S.P. 594) (L.D. 1653) Bill "An Act to Enable the Use of Former Exit 5 on the Maine Turnpike for Access to an Adjacent Liquor Store and Hotel and Conference Center Facility" **Committee on Transportation**

reporting "Ought to Pass" as amended by Committee Amendment "A" (S-448)

(S.P. 605) (L.D. 1703) Bill "An Act Concerning the Payment of Medical Expenses in Controverted Workers' Compensation Cases" **Committee on Banking & Insurance** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-471)

(S.P. 612) (L.D. 1710) Bill "An Act to Simplify the State's Liquor Tax" **Committee on Legal Affairs** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-456)

(S.P. 640) (L.D. 1774) Bill "An Act to Create the Maine Office Development Authority" **Committee on State & Local Government** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-467)

(S.P. 641) (L.D. 1788) Bill "An Act to Reduce the Property Tax Burden in Androscoggin County" **Committee on State & Local Government** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-457)

(S.P. 660) (L.D. 1828) Bill "An Act to Provide for Uniform Fees Paid to Registers of Deeds for the Filing of Secured Transactions" **Committee on State & Local Government** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-458)

(S.P. 670) (L.D. 1838) Bill "An Act to Establish the Door-to-door and Telemarketing Consumer Solicitation Sales Act" **Committee on Business Legislation** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-453)

(S.P. 686) (L.D. 1872) Bill "An Act to Make Allocations from the Maine Turnpike Authority Funds to the Maine Turnpike Authority for the Fiscal Year Ending December 31, 1995" **Committee on Transportation** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-462)

(S.P. 698) (L.D. 1896) Bill "An Act to Correct the Implementation of Recent Changes to the Retirement Laws" (EMERGENCY) **Committee on Aging, Retirement & Veterans** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-474)

(S.P. 701) (L.D. 1899) Bill "An Act to Require Risk-based Capital Standards and Standard Valuation to Ensure Continued Accreditation for the Bureau of Insurance" **Committee on Banking & Insurance** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-464)

(S.P. 703) (L.D. 1900) Bill "An Act to Establish a New Valuation on Sears Island" (EMERGENCY) **Committee on Taxation** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-451)

(S.P. 715) (L.D. 1930) Resolve, to Create the Blue Ribbon Commission on Hunger and Food Security **Committee on Appropriations & Financial Affairs** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-476)

There being no objections, the above items were ordered to appear on the Consent Calendar of

Wednesday, March 23, 1994 under the listing of Second Day.

SENATE PAPERS

The following Joint Order: (S.P. 765)

ORDERED, the House concurring, that the Joint Standing Committee on Housing and Economic Development report out a bill concerning economic development matters to the Senate.

Came from the Senate, read and passed.

Was read and passed in concurrence.

Divided Report

Majority Report of the Committee on Banking and Insurance reporting "Ought Not to Pass" on Bill "An Act to Permit Short-term Health Insurance Policies" (S.P. 716) (L.D. 1938) (Governor's Bill)

Signed:

Senator: McCORMICK of Kennebec

Representatives: PINEAU of Jay
TRACY of Rome
RAND of Portland
TOWNSEND of Canaan
ERWIN of Rumford

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Signed:

Senator: KIEFFER of Aroostook

Representatives: CARLETON of Wells
CAMPBELL of Holden

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

Reports were read.

On motion of Representative JACQUES of Waterville, tabled pending acceptance of either Report and specially assigned for Wednesday, March 23, 1994.

Divided Report

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act to Change the Selection Process for the State Auditor and More Closely Align the Work of the Joint Standing Committee on Audit and Program Review with the Work of the State Auditor" (S.P. 694) (L.D. 1880) (Governor's Bill)

Signed:

Senators: BERUBE of Androscoggin
ESTY of Cumberland

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

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-466) on same Bill.

Signed:

Senator: BUTLAND of Cumberland

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

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

Reports were read.

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

On further motion of the same Representative, tabled pending her motion to accept the Majority "Ought Not to Pass" Report and specially assigned for Wednesday, March 23, 1994.

Divided Report

Majority Report of the Committee on Agriculture reporting "Ought Not to Pass" on Bill "An Act to Allow the Sale of Irradiated Food in Maine" (S.P. 684) (L.D. 1870)

Signed:

Senators: PARADIS of Aroostook
PINGREE of Knox
MARDEN of Kennebec

Representatives: TARDY of Palmyra
HUSSEY of Milo
HEESCHEN of Wilton
AHEARNE of Madawaska
STROUT of Corinth
SPEAR of Nobleboro
NASH of Camden
CROSS of Dover-Foxcroft
KNEELAND of Easton

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-472) on same Bill.

Signed:

Representative: ALIBERTI of Lewiston

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

Reports were read.

On motion of Representative TARDY of Palmyra, the Majority **"Ought Not to Pass"** Report was accepted in concurrence.

The Speaker resumed the Chair.

On motion of Representative SWAZEY of Bucksport, adjourned at 7:00 p.m., until 9:00 a.m., Wednesday, March 23, 1994.