

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
26th Legislative Day
Wednesday, March 23, 1994

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

Prayer by Doctor James L. Haddix, All Souls Congregational Church, Bangor.

The Journal of yesterday was read and approved.

SENATE PAPERS

Ought to Pass as Amended

Report of the Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (S-452) on Bill "An Act to Amend the Laws Concerning Emergency 911" (S.P. 452) (L.D. 1419)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-452).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-452) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

Ought to Pass as Amended

Report of the Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-455) on Bill "An Act to Amend the Petroleum Market Share Act" (S.P. 596) (L.D. 1655)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-455).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-455) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

Ought to Pass as Amended

Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-447) on Bill "An Act to Amend the Laws that Deal with the Protection of Natural Resources" (S.P. 619) (L.D. 1721)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-447).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-447) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

Divided Report

Majority Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-468) on Bill "An Act to Encourage Municipal Investment in Local Economic Development Projects" (EMERGENCY) (S.P. 647) (L.D. 1806)

Signed:

Senators: CAREY of Kennebec
SUMMERS of Cumberland
BALDACCI of Penobscot

Representatives: DIPIETRO of South Portland
RAND of Portland
NADEAU of Saco
HOGLUND of Portland
MURPHY of Berwick
FARNSWORTH of Hallowell
SIMONEAU of Thomaston

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

Signed:

Representatives: TARDY of Palmyra
SPEAR of Nobleboro
DORE of Auburn

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-468).

Reports were read.

Representative DORE of Auburn moved that the House accept the Minority "Ought Not to Pass" Report.

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

Divided Report

Majority Report of the Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-459) on Bill "An Act to Clarify the Appropriate Secular Observance of Religious Holidays in Maine Schools" (S.P. 704) (L.D. 1901)

Signed:

Senators: LAWRENCE of York
AMERO of Cumberland
O'DEA of Penobscot

Representatives: PINETTE of Fort Kent
AULT of Wayne
CLOUTIER of South Portland
OLIVER of Portland
NORTON of Winthrop
SMALL of Bath

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (S-460) on same Bill.

Signed:

Representatives: STEVENS of Orono
PFEIFFER of Brunswick
SIMONDS of Cape Elizabeth
MITCHELL of Vassalboro

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-459).

Reports were read.

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

Representative SMALL of Bath requested a division.

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

A vote of the House was taken.

Representative MITCHELL of Vassalboro requested a roll call on her motion to accept the Minority "Ought to Pass" Report.

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

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

The SPEAKER: The Chair recognizes the Representative from Oakland, Representative Poulin.

Representative POULIN: Mr. Speaker, Men and Women of the House: Could we please have someone describe the difference between the two reports.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I appreciate that request because that is the main reason I asked for a roll call. I have been around the halls long enough to read committee reports and to know the difficulty but I do think it is important that everyone in this body understand the difference in the two reports. Both reports allow religious observances in the school. I, and some of my colleagues, signed the Minority Report. It is an amendment which reads thus, "A public school may acknowledge religious holidays in some manner or form permissible under the United States Constitution."

The difficulty our committee had was that everyone was trying to come up with statutory language which offered protection if a school chose to observe a religious holiday. We spent many hours on this topic. We had our legislative staff go over court decisions to see what was permissible. I finally came down to the fact that no one is quite sure and that putting something in statute does not offer any protection whatsoever to a school if indeed it is not in compliance with the United States Constitution.

I believe that it is frankly more honest and more appropriate to your local school districts to tell them that they have to be every vigilant about compliance with the U.S. Constitution.

In this debate, people called me because of my concern and my respect and my tolerance of many kinds of religions and perhaps my biggest fault is I am too religious but nevertheless I am extraordinarily respectful of my friends in this body who do not share my religious views. It is for that reason that I chose an amendment which allowed us to move forward in accordance with the Constitution. No statute that you pass in this body will protect your school district from a constitutional challenge and I don't know how to write a statute that is going to withstand a constitutional challenge.

So, you must make your own judgment, this is a very difficult issue for everybody so search your conscience and do what is right and don't be afraid to be called a grinch who spoiled Christmas by standing up for your religious beliefs.

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

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: The two reports that we do have here today before you aren't all that different. They both try to in some way define what would be and would not be allowed in schools regarding observance of religious holidays.

Frankly, the Majority Report isn't as clear and precise as we had hoped that it might be but we were again trying to stay within the laws of the constitution.

One of the problems out there is school boards and superintendents and I guess other members in the school systems don't know what is allowed and what is not allowed right now for religious observance.

We traditionally, in our school, have a holiday concert and they try to sing songs from more than one religion. I would assume that if we had a population like Portland, we would try to bring in those other populations that may have different religious observances. But, the question is what is allowed and what is not? In some school districts, they are saying nothing. You can't have anything that even remotely deals with Christmas, you can't talk about Hanukkah, you can't have Halloween parties, you can't have St. Valentine's and that sort of thing.

I think if we don't define what is legal or allowed, then that is open for the interpretation and sometimes a school board member who has a particular bias, whether it is to introduce religious holidays into the school or to ban them has some sway because nobody knows what the proper statute is.

I would defy anyone in here to be able to tell me a public school may acknowledge religious holidays in some manner or form permissible under the United States Constitution. Well, I don't know what to tell my local school district for that. I am not a Constitutional lawyer and I think even Constitutional lawyers would disagree with that and that is why we have cases going before the Supreme Court dealing with that.

Ours is just a little bit more defining and it is not a whole lot more because they had to purposefully state within the Constitution but it just says a public school may acknowledge religious holidays by conveying a message of pluralism and freedom of belief in some manner or form that does not endorse religion — that would be you could get up and sing

something to the effect of Oh' Christmas Tree, Up on the Rooftop, I would assume we could still do the songs that we do that acknowledge the Hanukkah celebrations as well, at least we do in our school.

In the Statement of Fact it just outlines that the Supreme Court has found that displaying a creche in the courthouse is unconstitutional but displaying a Christmas tree or wreath in or outside a city or county building is constitutional. It kind of leaves those guidelines. It is still sketchy and I am afraid it doesn't go as far as we really need it to help the school systems but it gives a little bit more of a set of criteria for schools when they are trying to decide what is appropriate and what isn't appropriate.

All we are trying to do -- I think we are trying to do the same thing as the Minority side -- is to set some standards and they are vague but I think ours are a little less vague and would help the school districts when they are deciding. They will still have the final decision whether or not to have any sort of school celebrations or any sort of traditional holiday celebrations there but this gives them a little better determination on what would be permissible and what would not.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Simonds.

Representative SIMONDS: Mr. Speaker, Ladies and Gentlemen of the House: First I want to say that by error I voted on the wrong side of this. I do support the, when we had the division, I do support the Minority "Ought to Pass" Report.

The Representative from Vassalboro, I think, has explained the difference. I would only add this, that it is precisely because of those difficulties in providing guidelines for schools that the Minority Report, I think, makes more sense. We were told by those who have studied the record of the Supreme Court this has been a five to four, five to four, five to four, vote on issues involving this subject. With the new composition of the court that will probably change, four/five, four/five, four/five and with that substantial indecision at the Supreme Court level, we thought it best simply to leave it as the Minority Report suggests to the Supreme Court as the final judge on this until this issue really settles down for the country as a whole.

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

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I, too, was fouled up in my vote at first. It is always a matter of perspective whether one judges that they voted right or wrong. I could say you voted correctly in terms of how I would feel the first time around. I was voting against my own vote in committee the first time around, while I was answering some questions and being out of order.

My fear in not being a little more definitive in this bill relative to what might be done, relative to this very sensitive subject lies in the fact that we are losing our heritage. People should be able to learn about religion, not be taught it, not be indoctrinated in a secular part of religion, but it is a terrible thing if we run so scared in our schools that people don't dare to learn about what our history has been and what some of these great events in the world of religion have been.

I am sensitive to the sensitivity of the issue, it wasn't a wild debate we had in committee, but I must

say it was a lengthy and thoughtful one. We came down on the sides that we did, hoping that school systems would be a little better guided by a little more substance than merely saying, don't do something unconstitutional because in effect, you could put that after anything that you do in any walk of life.

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

Representative PFEIFFER: Mr. Speaker, Men and Women of the House: As Representative Simonds explained, the Supreme Court has been all over the lot on this issue. I am not sure that the Majority actually achieves its objective of being any more definitive when they talk about an acknowledgment and an attempt to distinguish that from an endorsement. I think the line between acknowledgment and endorsement is going to be a very difficult one to draw and I think it may very well end up in more lawsuits considering the context in which the acknowledgment appears or occurs, obviously that is the school setting, there doesn't seem to be a great deal of differentiation there.

I further think that the end result of the secularization of religion may very well end up being a trivialization of religion. If you are going to consider a creche as a secular symbol, it certainly robs it of a great deal of its meaning and makes me wonder if it is worthwhile pursuing.

I would urge you to adopt the Minority Report that simply, as our Committee Chair said, puts schools on notice that whatever they do, it has to be in accord with constitutional ruling.

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

Representative OLIVER: Mr. Speaker, Ladies and Gentlemen of the House: It is very difficult sometimes for me because I am always on the side of Representative Pfeiffer and Representative Mitchell. In this case, I am not. I think that the clearest lesson to me in diversity is the Reiche School, it is an elementary school in my neighborhood, it has over 30 different cultures represented, they are speaking over 25 different languages and it is a wonderful education when you go over there because they are demonstrating the traditions of the Buddhist culture, the Muslim culture, the Christian culture, the Jewish culture, and they are using it in an education context.

I think we can micromanage our schools. What the educators are really asking for is that the Supreme Court in its indecision and vagueness on this issue begs the question so we as a state with our school administrators saying can we put a Christmas tree up? Can we have some Buddhist dances in our school? Can we sing some Muslim songs? Can we hang some traditional things from other religions so that people see the diversity, enjoy the diversity and understand that diversity? It is very important in our culture as we get more languages and more different religions coming in. Certainly I know in the State of Maine in 1960 it would have been hard to find someone who was a Buddhist or a Muslim and here is our Reiche Elementary School speaking 25 different languages, 30 different cultures and using that as part of the education. So, the vagueness of the Supreme Court really means that we have to give some guidance and direction to the educators, that it is okay to bring these various traditions and diversities into our schools in a non-secular way,

not promoting religion but enjoying diversity. They need that direction, it is very, very important. I think it is even more important because of the vagueness of the Supreme Court so our educators will know yes, it is okay Reiche School that you can educate people in diversity, that you can use the wonderful various traditions of the children that attend that school to teach diversity and that you can teach tolerance through that diversity. I think it is important if the Supreme Court can't come to a decision and our educators are calling for the state to give some definition I think our definition in the Majority Report is very fair, it says you cannot promote religion but it also indicates that it is okay to recognize the educational value of diversity in religion and tradition.

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

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: My reasons for signing on the Majority Report were very simple, I grew up in a big family of 12 children, had good religious background, some of the things I agreed with some of them I didn't. But, I also had the opportunity when I was in the Merchant Marines to travel around the world, go to different mosques, different temples, never made a dent in my attitude or my character towards other peoples.

Basically the reason I am standing up is to briefly put this in a concise form as to why I am on the Majority Report and would ask you to vote accordingly with us. The Bill came to the Committee simply because children were singing Christmas carols on the bus and some superintendent says that is not right. I am asking you to let the kids sing Christmas carols on the bus.

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

ROLL CALL NO. 256

YEA - Bowers, Carleton, Carroll, Chase, Coles, Constantine, Daggett, Dore, Gamache, Gean, Gray, Heeschen, Hoglund, Holt, Joseph, Kontos, Mitchell, E.; Mitchell, J.; Pfeiffer, Poulin, Richardson, Rowe, Rydell, Saxl, Simonds, Skoglund, Townsend, E.; Tracy, Walker, Wentworth.

NAY - Adams, Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Caron, Carr, Cashman, Cathcart, Chonko, Clark, Clement, Cloutier, Clukey, Coffman, Cote, Cross, Dexter, Dipietro, Donnelly, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnum, Farren, Fitzpatrick, Foss, Gould, R. A.; Greenlaw, Hale, Hatch, Heino, Hichborn, Hussey, Jacques, Jalbert, Johnson, Joy, Kerr, Ketterer, Kilkelly, Kneeland, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Martin, J.; Michael, Michaud, Morrison, Murphy, Nadeau, Nash, Nickerson, Norton, O'Gara, Oliver, Paradis, P.; Pendexter, Pendleton, Pineau, Pinette, Plourde, Plowman, Rand, Reed, G.; Reed, W.; Ricker, Robichaud, Ruhlin, Simoneau, Small, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Taylor, Thompson, Townsend, G.; Townsend, L.; True, Tufts, Vigue, Whitcomb, Winn, Zirnkilton.

ABSENT - Beam, Brennan, Farnsworth, Hillock, Kutasi, Larrivee, Martin, H.; Melendy, Ott, Pouliot, Rotondi, Saint Onge, Tardy, Treat, Young, The Speaker. Yes, 30; No, 105; Absent, 16; Paired, 0; Excused, 0.

30 having voted in the affirmative and 105 in the negative, with 16 being absent, the Minority "Ought to Pass" Report was not accepted.

Subsequently the Majority "Ought to Pass" Report was accepted. The Bill read once. Committee Amendment "A" (S-459) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

Divided Report

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act to Preserve Maine's Part-time Citizen Legislature by Making the Legislative Process More Efficient" (S.P. 711) (L.D. 1926) (Governor's Bill)

Signed:

Senators: ESTY of Cumberland
BERUBE of Androscoggin

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

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-461) on same Bill.

Signed:

Senator: BUTLAND of Cumberland

Representatives: GRAY of Sedgwick
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.

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

Representative BENNETT: Mr. Speaker, Colleagues of the House: This bill would shorten the legislative session by changing the Statutory Adjournment Dates and thereby would encourage us to be more efficient in our work and allow more ordinary citizens the opportunity to serve in this body and the other body and I encourage you vote against the pending motion.

I ask for a division.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I would hope that you would vote "Ought Not to Pass" on this bill. It is interesting to me that L.D. 79, which the State and Local Government Committee heard in the first year of this session was almost identical to the bill that is before you right now. So, at the same time that people are saying we really need to have a shorter session we are also saying please do the same bill over and over and over again. I think with that train of thought you might say by the time you have ten of these bills maybe we could be out in a month and a half.

I really think that there is some problem with that particular process and I think this bill has been before us before we have gotten rid of it before and I think that is appropriate. We need to do the work that is set before us and creating an artificial deadline that is shorter than what is in place now, I don't think, is reasonable. We are looking right now at getting out much before our statutory deadline and that is something that we can take care of ourselves and we don't need this outside infringement on that.

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

Representative BENNETT: Mr. Speaker, Colleagues of the House: This bill does indeed create a new artificial deadline that changes the current artificial deadline and it is our experience that our work tends to fill the available time.

I would also say that Representative Kilkelly points out that this bill is similar to a bill that we considered last year but there are some substantive changes. If we are to pass that test along on every bill we consider we couldn't consider a supplemental budget because in fact last year we passed a budget so if we are to follow that line of reasoning we couldn't deal with a supplemental budget this year because we had theoretically already dealt with that.

I would say that this bill differs from L.D. 79 principally in that L.D. 79 also cut legislators pay and this bill does not do that. I encourage you to take a look at it and to vote against the pending motion.

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

Representative AHEARNE: Mr. Speaker, Ladies and Gentlemen of the House: The argument that reducing the length of the session will increase efficiency is fallacious. Reducing the length of the session will play in the hands of special interest groups who will be able to devote resources and time to develop agreement supporting their viewpoints on issues while the legislature will have inefficient time to fully and thoroughly investigate and analyze critical issues sufficiently to make good judgment or to intelligently question the comments of the special interests and the executive branch.

Reducing the length of the session will also limit the ability of legislators to seek the opinions of their constituents especially through personal contact.

What this measure will accomplish is to increase the influence of special interest groups while diminishing the ability of the legislature to effectively represent the people of this state.

I will vote against this measure as it is against the interest of good government, against the interests of the citizens of Maine and clearly for

the benefit of special interest groups at the expense of the people of this state.

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

Representative KILKELLY: Mr. Speaker, I would pose a question through the Chair to Representative Bennett.

One of the differences that was outlined in this bill is that it doesn't cut pay and the other one did. So, does that mean that you would support reducing the time but not reducing the money so we get paid the same amount of money but for a significantly shorter session?

The SPEAKER: Representative Kilkelly of Wiscasset has posed a question through the Chair to Representative Bennett of Norway who may respond if he so desires.

The Chair recognizes that Representative.

Representative BENNETT: Mr. Speaker, Colleagues of the House: My record on L.D. 79 speaks for itself. I am sure you are aware of it, I supported that bill. My desire here is if we can't get the full loaf we can settle for half a loaf.

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

A vote of the House was taken.

84 having voted in the affirmative and 29 in the negative, the Majority "Ought Not to Pass" Report was accepted in concurrence.

**Recalled from the Legislative Files
Pursuant to Joint Order S.P. 762**

Non-Concurrent Matter

Bill "An Act to Modify the Taxation of Leases on Automobiles" (S.P. 545) (L.D. 1570) which was referred to the Committee on Taxation pursuant to Joint Rule 14 on December 14, 1993.

Placed in the Legislative Files pursuant to Joint Rule 15 on March 22, 1994.

Recalled from the Legislative Files pursuant to Joint Order S.P. 762.

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

The House voted to Recede and Concur.

COMMUNICATIONS

The following Communication: (S.P. 748)

116th Maine Legislature

March 10, 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 Laura L. Pruett of Augusta, Arthur C. Verow of Brewer and Joseph Pio of Westbrook for reappointments and Lowell Woodman, Jr. of Monmouth for appointment to the Animal Welfare Advisory Committee.

Pursuant to Title 7, MRSA Section 3906-C, these nominations 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: (S.P. 750)

116th Maine Legislature

March 14, 1994

Senator Rochelle Pingree
Rep. Rita B. Melendy
Chairpersons
Joint Standing Committee on Housing and Economic Development
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Janis B. Cohen of Cape Elizabeth for appointment and Anita C. Stickney of Yarmouth for reappointment to the Finance Authority of Maine.

Pursuant to Title 10, MRSA Section 965, these nominations will require review by the Joint Standing Committee on Housing and Economic Development and confirmation by the Senate.

Sincerely,

S/Dennis L. Dutremble
President of the Senate

S/Dan A. Gwadosky
Speaker of the House

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

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

The following Communication: (S.P. 751)

116th Maine Legislature

March 14, 1994

Senator John J. O'Dea
Rep. Elizabeth H. Mitchell
Chairpersons
Joint Standing Committee on Education
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Donald A. Kopp of West Buxton and J. Michael Orenduff of Bangor for reappointments to the Maine Education Assistance Board.

Pursuant to Title 10, MRSA Section 1016, these nominations will require review by the Joint Standing Committee on Education 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 **Education**.

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

The following Communication: (S.P. 753)

Maine State Senate
Augusta, Maine 04333

March 16, 1994

The Honorable Dennis L. Dutremble
President of the Senate
116th Legislature

The Honorable Dan A. Gwadosky
Speaker of the House
116th Legislature

Dear Mr. President and Mr. Speaker:

Please be advised that today 1 bill was received by the Secretary of the Senate.

Pursuant to the provisions of Joint Rule 14, this bill was referred to the Joint Standing Committee and ordered printed on March 16, 1994, as follows:

LABOR

Bill "An Act to Establish a Self-employment Assistance Program" (Governor's Bill) (S.P. 752) (L.D. 1981) (Presented by Senator CARPENTER of York) (Cosponsored by Senator: HANDY of Androscoggin, Representatives: RUHLIN of Brewer, ZIRNKILTON of Mount Desert)

Sincerely,

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

S/Joseph W. Mayo
Clerk of the House

Came from the Senate, read and ordered placed on file.

Was read and ordered placed on file in concurrence.

The following Communication: (S.P. 754)

116th Maine Legislature

March 16, 1994

Senator John J. O'Dea
Rep. Elizabeth H. Mitchell
Chairpersons
Joint Standing Committee on Education
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Ralph L. Hodgkins, Jr. of Wiscasset and Sally G. Vamvakias of Falmouth for reappointment and Albert B. Glickman of Cape Elizabeth for appointment to the University of Maine Board of Trustees.

Pursuant to P&SL 1967 Chapter 229, these nominations will require review by the Joint Standing Committee on Education 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 **Education**.

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

The following Communication: (S.P. 755)

116th Maine Legislature

March 16, 1994

Senator Alton E. Cianchette
Rep. Annette M. Heglund
Chairpersons
Joint Standing Committee on Business Legislation
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Peter C. White of East Winthrop and Norma M. Rice of Kittery for appointments to the Maine Real Estate Commission.

Pursuant to Title 32, MRSA Section 13062, these nominations will require review by the Joint Standing Committee on Business Legislation 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 **Business Legislation**.

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

The following Communication: (S.P. 757)

116th Maine Legislature

March 17, 1994

Senator Harry L. Vose
Rep. James Mitchell
Chairpersons
Joint Standing Committee on Marine Resources
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Burton H. Blanch of Eastport, Arthur Odlin of South Portland and Brad Burns of Falmouth for reappointments to the Marine Resources Advisory Council.

Pursuant to Title 12, MRSA Section 6024, these nominations will require review by the Joint Standing Committee on Marine Resources 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 **Marine Resources**.

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

The following Communication: (S.P. 758)

116th Maine Legislature

March 17, 1994

Senator John J. O'Dea
Rep. Elizabeth H. Mitchell
Chairpersons
Joint Standing Committee on Education
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Erin O'Brien of Scarborough for appointment as Student Trustee Member of the University of Maine Board of Trustees.

Pursuant to P&SL 1987, Chapter 735, Section 73, this nomination will require review by the Joint Standing Committee on Education 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 **Education**.

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

The following Communication: (S.P. 759)

116th Maine Legislature

March 17, 1994

Senator Rochelle Pingree
Rep. Rita B. Melendy
Chairpersons
Joint Standing Committee on Housing and Economic Development
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Jane Roundy of Manchester for appointment to the Maine State Housing Authority.

Pursuant to Title 30A, MRSA Section 4723, this nomination will require review by the Joint Standing Committee on Housing and Economic Development and confirmation by the Senate.

Sincerely,

S/Dennis L. Dutremble
President of the Senate

S/Dan A. Gwadosky
Speaker of the House

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

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

The following Communication: (S.P. 760)

116th Maine Legislature

March 17, 1994

Senator Gerard P. Conley, Jr.
Rep. Constance D. Cote
Chairpersons
Joint Standing Committee on Judiciary
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Paul K. Vestal of Plymouth for reappointment to the Maine Human Rights Commission.

Pursuant to Title 5, MRSA Section 4561, this nomination will require review by the Joint Standing Committee on Judiciary 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 **Judiciary**.

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

The following Communication: (S.P. 749)

116th Maine Legislature

March 11, 1994

Senator Dale McCormick
Rep. Edward L. Pineau
Chairpersons
Joint Standing Committee on Banking and Insurance

116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated H. Donald DeMatteis of Litchfield for reappointment as Superintendent of the Maine Bureau of Banking.

Pursuant to Title 9B, MRSA Section 211, this nomination will require review by the Joint Standing Committee on Banking and Insurance and confirmation by the Senate.

Sincerely,

S/Dennis L. Dutremble
President of the Senate

S/Dan A. Gwadosky
Speaker of the House

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

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

The following Communication: (S.P. 761)

116th Maine Legislature

March 18, 1994

Senator Georgette B. Berube
Representative Ruth Joseph
Chairpersons
Joint Standing Committee on State & Local Government
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Secretary of State, G. William Diamond has nominated James S. Henderson of Orr's Island for reappointment as the State Archivist to the Maine State Archives.

Pursuant to Title 5, Section 93, this nomination will require review by the Joint Standing Committee on State & Local Government 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 **State & Local Government**.

Was Read and Referred to the Committee on **State & Local Government** in concurrence.

The following Communication: (S.P. 763)

116th Maine Legislature

March 22, 1994

Senator John J. O'Dea
Rep. Elizabeth H. Mitchell
Chairpersons
Joint Standing Committee on Education
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Denison Gallaudet of Cumberland for appointment to the Maine Technical College System Board of Trustees.

Pursuant to Title 20-A, MRSA Section 12705, this nomination will require review by the Joint Standing Committee on Education 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 **Education**.

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

The following Communication: (S.P. 764)

116th Maine Legislature

March 18, 1994

Senator Georgette B. Berube
Representative Ruth Joseph
Chairpersons
Joint Standing Committee on State & Local Government
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Derek P. Langhauser of Portland for appointment John B. Wooten of Blue Hill for reappointment to the Maine Court Facilities Authority.

Pursuant to Title 4, MRSA Section 1602, these nominations will require review by the Joint Standing Committee on State & Local Government 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 **State & Local Government**.

Was Read and Referred to the Committee on **State & Local Government** in concurrence.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Reported Pursuant to Statutes

Representative ERWIN for the Joint Standing Committee on Audit and Program Review pursuant to the Maine Revised Statutes, Title 3, chapter 33 ask leave to submit its findings and to report that the accompanying Bill "An Act Regarding the Department of Corrections" (H.P. 1454) (L.D. 1982) be referred to the Joint Standing Committee on **Audit & Program Review** for Public Hearing and printed pursuant to Joint Rule 20.

Report was read and accepted, and the Bill referred to the Committee on **Audit & Program Review**, ordered printed and sent up for concurrence.

ORDERS

On motion of Representative RYDELL of Brunswick, the following Joint Resolution: (H.P. 1455) (Cosponsored by Senator McCORMICK of Kennebec and Representatives: ADAMS of Portland, CARROLL of Gray, CHONKO of Topsham, COLES of Harpswell, DORE of Auburn, HICHBORN of LaGrange, HOGLUND of Portland, JACQUES of Waterville, JOSEPH of Waterville, LIPMAN of Augusta, MARTIN of Eagle Lake, MELENDY of Rockland, MICHAUD of East Millinocket, MITCHELL of Vassalboro, MITCHELL of Freeport, O'GARA of Westbrook, PARADIS of Augusta, PINEAU of Jay, POULIOT of Lewiston, SAXL of Bangor, TREAT of Gardiner, WALKER of Blue Hill, WHITCOMB of Waldo, ZIRNKILTON of Mount Desert, Senators: BUSTIN of Kennebec, CAHILL of Sagadahoc, CARPENTER of York, DUTREMBLE of York, ESTY of Cumberland)

JOINT RESOLUTION COMMEMORATING YOM HASHOAH, THE DAYS OF REMEMBRANCE OF THOSE WHO SUFFERED AS VICTIMS OF THE HOLOCAUST

WHEREAS, 52 years ago, 6,000,000 Jews were murdered in the Nazi Holocaust as part of a systematic program of genocide and millions of other people suffered as victims of Nazism; and

WHEREAS, the people of the State of Maine should always remember the atrocities committed by the Nazis so that such horrors are never repeated; and

WHEREAS, the people of the State of Maine should always remember those who liberated the Nazi concentration camps, some at the cost of their lives and others with lifelong emotional suffering, as holding an honored place in our history; and

WHEREAS, the people of the State of Maine should continually rededicate themselves to the principle of equal justice for all people, remain eternally vigilant against all tyranny and recognize that bigotry provides a breeding ground for tyranny to flourish; and

WHEREAS, April 8, 1994 has been designated internationally as a Day of Remembrance of the Victims of the Nazi Holocaust, known as Yom Hashoah; and

WHEREAS, the national community pursuant to an Act of Congress will be commemorating the week of April 3rd to April 10th as the Days of Remembrance of the Victims of Nazi Holocaust; and

WHEREAS, it is appropriate for the people of the State of Maine to join in this international commemoration; now, therefore, be it

RESOLVED: That, We, the Members of the One Hundred and Sixteenth Legislature, now assembled in the Second Regular Session, on behalf of the people we represent, pause in solemn memory of the victims of the Nazi Holocaust, and urge one and all to recommit themselves to the lessons of the Nazi Holocaust through this international week of commemoration and express our common desire to continually strive to overcome prejudice and inhumanity through education, vigilance and resistance; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the United States Holocaust Memorial Council in Washington, D.C., on behalf of the people of the State of Maine.

Was read.

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

Representative RYDELL: Mr. Speaker, Ladies and Gentlemen of the House: Today marks the annual Legislative Awareness Day sponsored by the Holocaust Human Rights Center of Maine. Each year we take time out of one legislative session to reflect on and remember the atrocities which were inflicted on millions of innocent people.

The devastating cruelty in human tragedy of the Nazi holocaust will always stand as a vivid and living legacy, touching not just those who have personal memories as survivors, but everyone who cares about any other human being.

As men and women living without the fear of persecution, we must assume our share of responsibility for teaching tolerance, understanding and love to our children, our colleagues and all our fellow citizens. As citizens of Maine, we have a very important resource to lead us in the quest for a just and tolerant world.

The Holocaust Human Rights Center of Maine was founded in 1985 by holocaust survivors and educators as a non-profit human resource center to lead the struggle to reduce prejudice and increase tolerance through knowledge and understanding. The goal is to teach the lessons which can be learned from the Nazi holocaust about what can happen when basic human

rights are destroyed. Through education the center works to reduce prejudice and to create an environment of tolerance, acceptance and well-being among all of Maine's people.

The United States is built upon a commitment to the rule of law that is justly enforced as protection for both the individual and collective rights of every citizen. Because we are elected officials entrusted by the voters to represent them and to ensure their protection, we play a vital role in maintaining and perpetuating that framework. As we look around the world at civil and human rights violations, which stare out at us daily from the TV screens and the pages of every newspaper, we must always remember that the United States must provide a steadfast commitment to the rule of law and must stand as a shining example for the rest of the world.

Please spend a few moments in the rotunda today, reflect on the means of the exhibits and talk with the members of the Holocaust Human Rights Center who are here today. Perhaps you might consider becoming a member of the center yourself.

This year there is a special addition to the exhibit — a new film is being shown continuously throughout the morning. The film, "Maine Survivors Remember the Holocaust" offers a clear, compelling introduction to the holocaust experience. It is a brilliant and moving documentary, weaving interviews with eight Maine survivors and an American liberator with actual photographs, archival films, maps, music and a narrative of events during the Nazi years. The film was produced at the Maine Public Television facility in Lewiston. Children and adults in our state and beyond will be better informed and better prepared to help create an environment of tolerance and acceptance in their communities through the educational programs which will be built around this film.

Our gratitude and thanks go to Harriet Pasanen, the producer; Charlie Rose, the director; Steve Hochstadt, the writer and project scholar and to Sharon Nichols, the project director and executive director of the Holocaust Human Rights Center.

The world of the future will be what we make it, let us pledge to join with the Holocaust Human Rights Center of Maine and make our state a model of equality, fairness and tolerance. We must tear down the walls of prejudice and create an environment where we can all live and work together in mutual respect and understanding.

Mr. Speaker, I would ask that we pause in our work of the day and observe a moment of silence in tribute to millions of people who suffered as a result of the holocaust.

The SPEAKER: The Chair would ask the members of the House and those in the gallery to please rise at this time for a moment of silence.

Subsequently, H.P. 1455 was adopted and sent up for concurrence.

On motion of Representative PINEAU of Jay, the following Joint Order (H.P. 1456)

ORDERED, the Senate concurring, that the Joint Standing Committee on Banking and Insurance report out a bill, "An Act Regarding Access to Chiropractic Services"

Was read and passed and sent up for concurrence.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Larry Smith, of Saco, on his retirement after more than 36 years of service with the Saco Fire Department. He has been Chief of the Saco Fire Department for 11 years and was the 1993 York County Firefighter of the Year. Chief Smith is past president of the York County Fire Chiefs Association, past president of the Maine Fire Chiefs Association and is a life member of the Maine State Federation of Firefighters; (SLS 240)

On objection of Representative NADEAU of Saco, was removed from the Special Sentiment Calendar.

Was read.

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

Representative NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I move for indefinite postponement of this measure.

This is quite a peculiar move that I just made and quite simply the reason for it is that this is a duplicate effort. In the conservative sense of trying to save time and money, this should never have been printed, it is a duplicative effort, I did the same in January of this year.

Subsequently, was indefinitely postponed.

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative DRISCOLL from the Committee on Transportation on Bill "An Act to Amend Certain Motor Vehicle Laws" (H.P. 1270) (L.D. 1697) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-886)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-886) 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 PINEAU from the Committee on Banking & Insurance on Bill "An Act to Improve Licensing Procedures at the Bureau of Insurance" (H.P. 1414) (L.D. 1924) (Governor's Bill) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-884)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-884) was read by

the Clerk and adopted and the bill assigned for second reading later in today's session.

Divided Report

Majority Report of the Committee on Fisheries & Wildlife on Bill "An Act to Exempt Owners of Shooting Ranges from any Civil or Criminal Action Relating to Noise Pollution" (H.P. 724) (L.D. 983) reporting that it be referred to the Committee on Energy and Natural Resources.

Signed:

Senators: HALL of Piscataquis
O'DEA of Penobscot

Representatives: CLARK of Millinocket
FARREN of Cherryfield
HEINO of Boothbay
JACQUES of Waterville
NICKERSON of Turner
ROTONDI of Athens
SWAZEY of Bucksport
TRACY of Rome
LARRIVEE of Gorham

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

Signed:

Senator: LUTHER of Oxford

Representative: GREENLAW of Standish

Reports were read.

On motion of Representative JACQUES of Waterville, the Majority Report was accepted and the Bill referred to the Committee on Energy and Natural Resources and sent up for concurrence.

Divided Report

Majority Report of the Committee on State & Local Government reporting "Ought Not to Pass" on Resolve, to Create the Commission to Establish Criteria and Qualifications for Certain State Officers (EMERGENCY) (H.P. 825) (L.D. 1111)

Signed:

Senators: BERUBE of Androscoggin
ESTY of Cumberland
BUTLAND of Cumberland

Representatives: JOSEPH of Waterville
GRAY of Sedgwick
DUTREMBLE of Biddeford
WALKER of Blue Hill
YOUNG of Limestone

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-883) on same Resolve.

Signed:

Representatives: KILKELLY of Wiscasset
AHEARNE of Madawaska
ROWE of Portland
LOOK of Jonesboro
BENNETT of Norway

Reports were read.

Representative JOSEPH of Waterville moved that the House accept the Majority "Ought Not to Pass" Report. Representative LIBBY of Buxton requested a roll.

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

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

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: This particular piece of legislation actually creates a commission to develop criteria for the qualifications of the Secretary of State, the Treasurer of the State and the amendment would have 11 members, one would be named by the Attorney General, one would be named by the Secretary of State and one would be named by the Treasurer of the State.

Currently in statute, the only qualifications named are the qualifications of the State Auditor. It was the feeling of the majority of the committee that the committee if they felt these qualifications were necessary for candidates or persons who were interested in running for these positions, then the committee could do this.

We did not feel that we needed to create a commission with a very small fiscal note of \$5,000 to do this. I am in error because the Attorney General is required to be an attorney. It was the feeling that those candidates would in fact be qualified because they would seek the votes of legislators in both bodies. If they were not qualified, they would not be even considered for these particular positions.

Therefore, the majority of the committee felt that the "Ought Not to Pass" Report was appropriate.

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

Representative LIBBY: Mr. Speaker, Ladies and Gentlemen of the House: This Resolve, which I wrote last year, creates a commission to establish a criteria and qualifications for state officers that include the Secretary of State, the Treasurer, the Attorney General and the State Auditor. I believe now, as I did last year when I introduced this legislation, that we need to review the qualifications and backgrounds for these posts.

If you did any research into the matter, I think you would find that there is very little on the subject written. I think it is something that can certainly improve the efficiency and effectiveness of the people that would hold these posts.

Let me just say that in terms of the qualifications and backgrounds that may come out of any recommendations of this committee, it would impact in no way the current holders of these offices. There would be absolutely no impact on the

current holders of these offices. We are talking about any future elected officers for these posts.

The commission will examine the responsibilities and duties of the state offices and they will examine the educational experience and professional certification and licensing requirements of these officers. They will recommend job criteria and qualifications for the individuals that will hold this office. They will determine the most appropriate method of establishing that criteria and the qualifications and they will recommend a time table in doing so.

The original bill that I wrote required absolutely no funding from the General Fund. It established the commission and required outside funding sources. The committee amendment does require a \$5,000 fiscal note. I think it is \$5,000 that is a drop in the bucket that could be very well spent and the question is, what are we afraid of? Why shouldn't we look at the criteria and qualifications of these office holders?

Let's take a look at them, let's come out with a professional review, let's have a professional review, have it forwarded to the Committee on State and Local Government Committee and let's see if we can put together a more efficient and effective means for those officer holders to carry out their duties.

So I do ask you to vote against the pending motion so that we could go on to accept the Minority "Ought to Pass" Report.

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

Representative ROWE: Mr. Speaker, Ladies and Gentlemen of the House: I am on the Minority "Ought to Pass" and I just wanted to explain my position. I agree that it is a good idea to have this commission to look at the qualifications and criteria for these four offices.

I don't think \$5,000 is a lot of money to do that. We put a fiscal note on there because we wanted to make sure that people that committed their time and energy were at least paid for per diem.

There were several changes made from the original bill and there were members of the committee who spent an awful lot of time working on this amendment. I would ask you to take a look at the amendment.

You may also note that members of this 11 person commission includes the office holders themselves or their designee so they will have the Attorney General, the Secretary of State, Auditor and Treasurer on the panel along with designees of the Speaker of the House, President of the Senate and the Governor. Those appointees by the Governor will be individuals who represent professional organizations who were directly involved in the activities regulated by these four office holders.

I agree that we don't have anything to fear, I think this will bring us some information and this commission will simply report back to the Committee on State and Local Government. There will be a public hearing as part of the process and perhaps it will result in some changes to the statutes setting forth additional criteria and qualifications to the office holders and perhaps not, but I think we ought to at least look into it and that is why I supported this.

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

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

ROLL CALL NO. 257

YEA - Adams, Aliberti, Barth, Bowers, Bruno, Carleton, Caron, Carroll, Cashman, Cathcart, Chonko, Clark, Clement, Cloutier, Coles, Constantine, Cote, Daggett, Dexter, DiPietro, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Gamache, Gould, R. A.; Gray, Hale, Hatch, Heesch, Hichborn, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketterer, Larrivee, Lemke, Marsh, Martin, J.; Michaud, Mitchell, E.; Mitchell, J.; Nadeau, O'Gara, Paradis, P.; Pendleton, Pfeiffer, Pineau, Pinette, Plourde, Poulin, Pouliot, Rand, Richardson, Ricker, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Vigue, Walker, Wentworth, Young, The Speaker.

NAY - Ahearne, Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Bennett, Birney, Brennan, Cameron, Campbell, Carr, Chase, Clukey, Coffman, Cross, Donnelly, Farnum, Farren, Fitzpatrick, Foss, Greenlaw, Heino, Johnson, Joy, Kilkelly, Kneeland, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Michael, Murphy, Nash, Nickerson, Norton, Oliver, Pendexter, Plowman, Reed, G.; Robichaud, Rowe, Simoneau, Small, Taylor, Thompson, True, Tufts, Whitcomb, Winn, Zirkilton.

ABSENT - Beam, Gean, Hillock, Kontos, Kutasi, Martin, H.; Melendy, Morrison, Ott, Reed, W.; Rotondi, Treat.

Yes, 83; No, 56; Absent, 12; Paired, 0; Excused, 0. 83 having voted in the affirmative and 56 in the negative, with 12 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-865) on Bill "An Act to Protect the Rights of Employees and to Ensure the Proper Expenditure of Public Funds" (H.P. 1303) (L.D. 1758)

Signed:

Senators: HANDY of Androscoggin
LUTHER of Oxford

Representatives: CHASE of China
LIBBY of Buxton
CLEMENT of Clinton
RUHLIN of Brewer

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

Signed:

Senator: BEGLEY of Lincoln

Representatives: AIKMAN of Poland
LINDAHL of Northport
CARR of Sanford

Representative COFFMAN of Old Town - of the House - abstaining.

Reports were read.

Representative RUHLIN of Brewer moved that the House accept the Majority "Ought to Pass" Report. On further motion of the same Representative, tabled pending his motion to accept the Majority "Ought to Pass" Report and specially assigned for Thursday, March 24, 1994.

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

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act Concerning Possession of Firearms by Minors on or near Public School Property" (H.P. 1375) (L.D. 1863)

Signed:

Senators: HALL of Piscataquis
CAREY of Kennebec

Representatives: DAGGETT of Augusta
BOWERS of Washington
STEVENS of Sabattus
BENNETT of Norway
ROBICHAUD of Caribou

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-880) on same Bill.

Signed:

Senator: HANDY of Androscoggin

Representatives: GAMACHE of Lewiston
NASH of Camden
TRUE of Fryeburg

Reports were read.

Representative DAGGETT of Augusta moved that the House accept the Majority "Ought Not to Pass" Report. The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Aliberti. Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to ask you to support the Minority Report in that if you will refer to the amendment you will see that the major concern of this bill was to tie in the revocation of the license to drive. One person who objected to it came out of the State Police Department and I kind of expected that kind of input from them with their concern as far as making the record public of a minor

that would lose their license as it was addressed in the bill.

The amendment, however, doesn't make it mandatory, the word "may" is put in there on one or two occasions. If you read the Statement of Fact, and you will bear with me for just a minute perhaps, if you don't have it before you, please let me read that to you.

This amendment replaces the original bill and creates a sentencing option for the courts in cases where a person is found guilty of possessing a firearm on public school property. The court "may" suspend a violator's driving license permit privilege to operate a motor vehicle or a right to apply to obtain a license for a period not exceeding one year. The penalty "may" be applied to violators who are adults or minors. The license suspension is not effective until after any period of confinement is applicable and is served. This amendment also adds a fiscal note to the bill and is a Minority Report.

Now let me give you some support and materials that we may have to look forward to in the not too distant future. Tipper Gore, I am sure you are familiar with her name, met with several juveniles throughout her concerns about violence at schools, teen pregnancies, juvenile crime as it appears in the USA Weekend of the Sunday supplement in the Lewiston paper. This didn't happen in the State of Maine but stop and think a moment - could this have happened in the State of Maine? Violence at schools - 100,000 American children will go to school carrying a gun. More than 40 children are killed or injured by firearms every school day. Thirty-nine percent of every school district had a shooting or killing last year.

Fifteen percent of schools use metal detectors. You want to hear something that is heartbreaking - Tomeka, who is a teenage person who was being interviewed by Tipper Gore said this: "I have lost 15 teenage friends to violence. I am sick and tired of it. I can't even shed any tears anymore. It just doesn't make sense. I keep a list every time a friend dies and I write it down, I write the name and the date, how they died." I think that is something to be concerned about. I think that we could readily address it without pushing a panic button.

What is wrong with using the loss of a privilege to deter this very, very serious type of action that has become normal in many of our schools?

I think the administration would find an element of support in the passage of this legislation. At first I submitted it only because it was a constituent request and then it began to hit more and more to an area that I should have been concerned about and I became very, very dedicated to this legislation.

I was disappointed as you look at the people who oppose it, I was very disappointed with one or two on the list in their complete feeling of not supporting it, regardless, they wouldn't support it, wouldn't bend in any way, shape or manner.

I urge you to give us a chance to put this in place, utilize the concept, and then go from there to address it if you have to again, sophisticate it if you have to again, but give us a chance to at least address this very serious concern about the violence in our schools.

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

Representative DAGGETT: Mr. Speaker, Ladies and Gentlemen of the House: I don't think that there are any of us who are not concerned about the dangers on school property or frankly anywhere with the improper use of firearms. I think that any of us would be willing to do most anything if we felt that we could deal with the problem in an effective manner. I guess that gets to my concern about this particular bill.

I question very seriously the effectiveness of this bill and the appropriateness of it. I would ask you to bear with me for a few moments so that I can explain to you what some of the thinking was in my not supporting this.

The first thing is, and perhaps some of the people who supported this were unaware of it, possession of firearms on school property or discharge of a firearm within 500 feet of school property is already a crime, a Class E Crime, and just possession or discharge of a firearm within 500 feet is already illegal.

We seem to have this feeling that if we add on penalties, make sentences longer and continue to be more punitive, that somehow there is a relationship but frankly there simply has not been a relationship in helping to curb a crime by adding on additional penalties. This is already against the law so we have a substantial penalty there.

The other issue is whether or not policy-wise it is appropriate to pull a driver's license for an offense that is unrelated to driving a vehicle. I guess that is the issue that is important for you to look at. If we feel that pulling a driver's license is appropriate, then perhaps a general statute that allows a driver's license to be pulled for any criminal infraction, regardless of what it is, would be a more appropriate law.

Some of us on the committee, and I for sure, believe that many people who do things against the law do not first check in the law books to see what they might be losing before they commit a crime. I find that very difficult to believe that pulling a driver's license is going to be any more of a deterrent than having this particular action being already a Class E Crime so I would ask you to just consider those things when you decide how to vote on this bill.

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

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you not to accept this bill.

I would like to clarify and make another point that Representative Daggett has made in saying that this is already law, that you cannot discharge a firearm within 500 feet of a school building is absolutely correct. You cannot even carry a firearm onto the premises where that school is except if you have permission and you are having a hunter/safety course so I would dare say that this bill is not needed, the Minority Report is not needed. There are things in statute already.

When are we going to stop with our people's drivers licenses? I mean we have to stop and look at what we are doing. Taking licenses away for child support and now we want to take away the licenses for having a firearm in a vehicle in a school yard and such, I think we are getting to a point where we have to clarify what we are doing here.

I urge you not to support the Minority Report.

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

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: Again, look at the difference that it has made in one of the very important violators, the person, both male and female, who have neglected their responsibilities in child support. Representative Tracy alluded to it. Look at the effectiveness when they introduced that and the collection rate as a result of taking away one of the great privileges that we have in this industrialized nation of ours, that is, the license to drive a car. Let's utilize what will work. This will work because it is such an important privilege, the ability to drive a car.

Today in Boston's Herald, headlines "Teen Pulls Gun on School Cops" — I am not pushing any panic button, I am just asking you to accept the concept and I don't think it is too difficult to accept it with the amendment, with the use of the word "may" in there instead of the mandated one. I don't want to push a panic button and use the very credible statement, "I told you so." I hope I never have to say that.

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

Representative JACQUES: Mr. Speaker, as the Representative of District #97, half the city of Waterville, I would like to pose a question through the Chair to anyone on the committee who might care to answer.

I got a copy of the Minority Report and my question is, and I guess I have a tendency to look at laws we pass and how they are going to affect my constituents, the everyday person, and I am one of my own constituents I guess, let's say under this version that I have been grouse hunting for the day with a friend of mine, Pat McGowan from Canaan, we get back and his wife comes out and says, "One of you has to go pick up Brady at Canaan Elementary School and the other one has to go pick up Katie at dance practice." I take off in my pickup with my shotgun in there because we just came back from bird hunting and without even thinking, drive onto the school yard, drive up and pick up Brady and there is a police officer sitting there and sees my shotgun in the back of the vehicle — under this amendment, would I be subject to arrest and would I be subject to forfeiture of my driver's license? The way I read it I have violated this section of the law.

If we pass this Minority Report as written, I want to know if that indeed could happen and my concern is in the city of Waterville we have 20 brand new police officers in the last year and a half, people say, "oh no, a police officer wouldn't do that because common sense would dictate that he would not" but the fact of the matter is, the law is the law. Ultimately, if we pass this version, I want to know if the scenario I laid out will make me (1) a criminal and (2) subject me to the possibility of losing my driver's license? I would direct that to anybody on the committee who could answer that question, please.

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

The Chair recognizes the Representative from Fryeburg, Representative True.

Representative TRUE: Mr. Speaker, Men and Women of the House: Being on the Minority side it would

seem to me that reading this strictly and interpreting this strictly that certainly the person the officer would have the right to perhaps cite you for a violation and then it would probably and undoubtedly would be up to the court. I can see how that might happen. However is this not true with all of our laws when they must be interpreted by someone who is considered an arresting officer or what have you to cite you for a violation of the law?

I am on this side principally because perhaps of my background of four decades in protection of young people on school grounds.

Perhaps just a quick note that I started traveling all over the United States visiting schools in 1964 in the last 15 years traveling to many of those same schools — you now go up to the gate or the door and someone looks at you through a peephole to recognize you with your credentials in order to let you in.

I would like to think that maybe — and we haven't got to that point naturally in the State of Maine and I would like to think that maybe we never will. But, I think anything that would prevent firearms from arriving one way or another on the school grounds would be a very important one to protect the young people that inhabit those particular buildings and those grounds.

Representative Aliberti of Lewiston was granted permission to address the House a third time.

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: First of all, before I use my age for an excuse I would ask for a roll call on this issue.

I would like to make it quite clear that the committee process works extremely well. You have a right to address any committee, any select committee, present a point of view and for the most part members of those committees bring back to us information that we wouldn't ordinarily have and I believe in that sincerely.

I want to commend Representative True for the two sessions that I attended. I was completely surprised when he supported the Minority Report because he asked the same question that Representative Jacques asked in both of those hearings. He analyzed that and I was in no position to guarantee him that if a parent inadvertently came off a hunting trip, the intent of the law is not to hold that person responsible, that is the intent of the law.

I did not include the adult in that — the member of the other body insisted that that be put in. If it has to be readdressed, fine.

I want to reemphasize it is the concept that I would like to have addressed, just to find out if we can address the concerns of the teen-age population and the great increase in the number of gangs that are taking place on the secondary level.

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

Representative CAMERON: Mr. Speaker, I would pose a question through the Chair.

To anyone who may be able to answer this question — referencing some of the previous testimony that indicated that the law is already in place that pertains to schools, guns in the vicinity of the school ground, would not Representative Jacques scenario as he laid it out make him in violation of the law as it is on the books today?

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

The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I do not have a copy of that statute right in front of me. I believe that the only exemption from the current statute is if you are instructing an approved course in which you would be using a firearm. I believe that is the only exemption and I believe that what Representative Cameron says is in fact true that possession of a firearm on school property is a Class E crime, with the one exception. I do not have the statute right in front of me and so I wouldn't stake my life on it.

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

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: Representative Daggett is absolutely correct, that is the present statute in law. You can not go onto school grounds with a firearm unless you are instructing a hunter safety course.

While I am on my feet, Mr. Speaker, I wish to pose a question through the Chair to anyone who is willing to answer. It seems to me that we are talking about youth that have drivers licenses — what happens to the individual who has no drivers license that goes on to school property and does the exact same thing as the person that has the drivers license? It seems to me that we are penalizing that persons that has a drivers license by taking that license away when the other individual that doesn't have a drivers license there isn't anything going to be done except under the current law. I wish somebody could give me an answer to that.

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

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: The original bill came to us with a title of "An Act Concerning Possession of Firearms by Minors on or Near Public School Property" and I believe Representative Aliberti raised the issue as well of the fact that the bill originally only dealt only with minors.

The committee had some concern and wanted to make sure that if something did pass that it in fact was reasonable and appropriate and the committee was concerned that a minor who was 17 years and 11 months would only have lost a license for one month under this because it would only affect minors and as soon as you were 18 it would no longer be affected. So, we were concerned about the disparity and the age issue here. Again, the same thing with there being a group of students who quite likely were unlicensed. So, we had carved the bill, carved out the tiniest little group of people that might lose a license so we tried to address that by making it at least apply to all those who had drivers licenses.

However, Representative Tracy is correct, there is no mechanism, there would be no possibility of withholding a drivers license or suspending a drivers license from someone who did not have a drivers license so there would be two different methods of treating people if this bill would be passed.

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

Representative DORE: Mr. Speaker, Men and Women of the House: Representative Aliberti came to me and

asked me to be a cosponsor on this bill several weeks ago and I gladly cosigned. I know it is a Minority Report, I understand the direction it is going but I want to explain why. Last year, eighth grade, Auburn Middle School, a kid came to school with a gun. We all got to read about it in the paper because I guess they didn't have time to call 300 families and say you are going to find out there was a kid at school with a gun this year. I sent my kid to school, like everybody else does and you don't think a lot about what might happen at school. There is some trouble and there are some physical altercations and things like that that go on at school but a gun changed everything. It just changed your sense that school was a safe place to send you kid.

Now, I want to address the other aspect of it because I think Representative Aliberti came up with a very reasonable alternative. The first reason it is reasonable is because it has worked well in tax policy and child support collections. The truth of the matter is we have gotten in a lot of money since we have taken away license to practice whatever your profession is and we have gotten in a lot of money since you have taken in your drivers license.

Now, we can't take away your drivers license if you are not paying child support and you don't have a drivers license. We can't take away your license to practice medicine if you are not paying income tax and you don't have a license to practice medicine. But, if you do — so, we are already discriminating in that case. We do pretty well in collections.

The one thing I know teen-agers really care about is getting a license to drive. I wish they didn't, I wish I didn't have to think about my kid behind a wheel of a car until they were 43, a reasonable age. The truth is what they really do care about is getting the freedom of wheels. They don't know what a Class E crime is and it never registers in their mind what so ever what the crime is or what it will mean if because I need a little attention I brought a gun to school on Tuesday morning. In my house when somebody needs a little attention the kid says, "Mom, I need a little attention, take the phone off the hook." But, some kid at my daughters school last year decided a way to convey the need for a little attention was to bring a gun to school. Nothing happened to anybody, but something could have and every parent now thinks about what goes on in the school.

So, all I am going to suggest to you is that I think Representative Aliberti has come up with something reasonable. I know it is a Minority Report, I know the direction it is probably heading in but I will tell you something, kids think about drivers licenses and maybe they will decide that to get attention they ought to swallow a gold fish.

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

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

ROLL CALL NO. 258

YEA - Anderson, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Brennan, Campbell, Carleton, Caron, Carr, Carroll, Cashman, Chase, Clark, Cloutier, Clukey, Constantine, Daggett, Dexter, Donnelly, Driscoll, Erwin, Faircloth, Farnum, Farren, Fitzpatrick, Gean, Gould, R. A.; Gray, Greenlaw, Hatch, Heesch, Heino, Hichborn, Hogle, Holt, Hussey, Jacques, Johnson, Kerr, Ketterer, Kilkelly, Kneeland, Kontos, Larrivee, Lemke, Lemont, Libby, James, Lindahl, Lipman, Lord, MacBride, Marsh, Marshall, Martin, J.; Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nickerson, Norton, O'Gara, Paradis, P.; Pendleton, Pineau, Plowman, Poulin, Reed, G.; Robichaud, Rowe, Ruhlin, Saint Onge, Saxl, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Tardy, Taylor, Townsend, E.; Townsend, G.; Tracy, Vigue, Walker, Wentworth, Young, Zirkilton.

NAY - Adams, Ahearne, Aikman, Aliberti, Ault, Bruno, Cameron, Cathcart, Chonko, Coffman, Coles, Cote, Cross, Dipietro, Dore, Dutremble, L.; Foss, Gamache, Hale, Jalbert, Joseph, Joy, Libby Jack, Look, Murphy, Nash, Oliver, Pendexter, Pfeiffer, Plourde, Pouliot, Rand, Richardson, Ricker, Rydell, Simonds, Simoneau, Skoglund, Small, Thompson, Townsend, L.; True, Tufts, Whitcomb, Winn.

ABSENT - Beam, Birney, Clement, Farnsworth, Hillock, Kutasi, Martin, H.; Melendy, Ott, Pinette, Reed, W.; Rotondi, Treat, The Speaker.

Yes, 92; No, 45; Absent, 14; Paired, 0; Excused, 0.
92 having voted in the affirmative and 45 in the negative, with 14 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-881) on Bill "An Act to Promote Integrity in the Citizens Petition Process" (H.P. 1417) (L.D. 1931)

Signed:

Senators: HANDY of Androscoggin
CAREY of Kennebec

Representatives: DAGGETT of Augusta
LEMKE of Westbrook
BOWERS of Washington
GAMACHE of Lewiston
STEVENS of Sabattus
NASH of Camden

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-882) on same Bill.

Signed:

Senator: HALL of Piscataquis

Representatives: BENNETT of Norway
ROBICHAUD of Caribou

TRUE of Fryeburg

Reports were read.

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

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

Representative BENNETT: Mr. Speaker, Men and Women of the House: I urge you to reject the Majority "Ought to Pass" Report and to take a close look at the Minority "Ought to Pass" Report which I think deals in a constitutional and more appropriate and functional way with the problem that the bill seeks to address.

There has been a lot made recently of a petition drive in this state that was recently conducted where the people organizing the petition drive paid their folks that were out on the street soliciting signatures, they actually paid them per signature. Apparently some people don't like that process.

It became clear in the Committee discussion on this bill, however, that there are serious constitutional questions with prohibiting that method of paying people to get signatures.

What the Minority Report, the Minority "Ought to Pass" Report does, the alternative to the pending motion is that it would require disclosure of the method of payment of petition signature gathers and thereby stepping around the constitutional question allowing the citizens themselves, the voters, to determine what they like and don't like.

It also requires in that disclosure what the rate of pay per signature would be so that people will know that if they sign it the guy that is collecting their signature may be getting \$5 or 50 cents or 2 cents or whatever it may be. It seems a lot more logical to me and to the other signers of the Minority Report to pursue it as a disclosure issue rather than outright prohibition.

The other interesting thing that came up in the Committee work session was that it is in fact not illegal for a person to pay another person to sign their petition. In other words, if I were collecting signatures for a petition I could pay actually the person who signed it, which is very close in my opinion to paying somebody for their vote. But, this bill doesn't seek to address that problem which seems to me to be a heck of a lot more significant than paying somebody for the labor involved in collecting signatures.

The Minority Report, that alternative, addresses that problem while addressing the first issue with a disclosure requirement. I think it is a good bill. I think it addresses the problem much more effectively than the broad-handed approach in the Majority Report.

I encourage you to vote against the pending motion and take a hard look at the Minority Report because I think it is a much better solution to the problem that was brought before the Legal Affairs Committee and debated extensively.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I chose to present this particular piece of legislation because I read in the newspaper about a recent citizen petition process in which people were paid up to \$1.40 for each signature

that they gathered. I felt that was wrong. When I was circulating a sign-on sheet for this bill 70+ of you agreed with me that it was wrong. What amazed me was that there was almost no discussion. As soon as I brought up the topic people said, "Yes, where do I sign?" I was pleased about that.

I would urge all of you to accept the current report.

There are other problems in the citizen initiated process. I believe that the Legal Affairs Committee should come back next year with more time in order to have a public hearing on other issues around the citizen initiated process. There was a public hearing on this issue, that's the issue that is passed and included in the Majority Report and I hope it stays that way.

The issue of constitutionality has been brought up. It was brought up in the hearing and it has been brought up in other discussions. I would like to address that. The constitutionality of a provision in Colorado was challenged and the provision was struck down. That provision said there can be no method of payment for a person circulating a petition for a citizen initiated referendum. The Supreme Court felt that that was an infringement on freedom of speech particularly political free speech and they struck it down. They said it is very difficult to get a ballot question on and to limit the circulation to volunteers is a problem. So, that was struck down.

This bill does not eliminate every possibility for paying people. It only eliminates the bounty-hunting aspect of payment per signature.

There was a case in 1980 which was a political free speech case from Pennsylvania. I would like to read to you a statement from the justices on that case. "Governmental interest in insuring that the electorate is fully informed and in preventing corruption of the political process may, in limited instances, be sufficiently compelling to justify narrowly tailored laws necessary to further those interests even though such legislation may have incidental impact on first amendment freedom but such interests will not justify any law placing a substantial burden on protected political speech."

This bill was crafted to take a look at one particular problem and address that problem as narrowly as possible in order to fit a constitutional test, it may, it may not. That is not our job today. Our job today is to say is it okay to allow people to bounty-hunt for signatures on a per-signature basis or is it not okay.

I believe that people should sign petitions for one of two reasons, either first of all they support the issue that is on the petition or second, they support the fact that people should vote on that. You should not sign a petition because somebody comes to you and says look, I have been out of work for six weeks and I will get \$1.50 if you sign this and you do ahead and do it. That is a violation of the citizen initiated process and it is a process that I respect and a process that I support.

I urge your support of the Majority "Ought to Pass" Report.

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

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to clarify one thing. Since we know where this bill came from, the amount that was paid for signatures — I had volunteered myself to gather signatures and I had

people in my district that were volunteers on Election Day that got paid nothing that actually cost us to go out and gather signatures.

I am also aware that in the beginning that the amount of money that was given for a signature was considerably less than this growing amount that keeps being talked about. Now we are talking about \$1.50, I think the average that was given out, with all the signatures considered, is somewhere around 40 cents. So, when we keep stretching this you would have -- I believe the figure was and somebody else might get specific on this but you would have had to collect something like 1700 signatures in one week in order to qualify for \$1.40 a signature. I don't think there were very many that did that so most of the signatures that were collected were collected for, like I said before, the average was around 40 cents.

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

Representative MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: First of all I would like to say that I also voted for the Minority Report but for some reason was not given an opportunity to sign on that so technically my name is not on this calendar today but I am a voter of the Minority Report.

As you know this is a well publicized bill which from its very start and quite openly (I am thankful for that) was about the term limit petition drive. So, first of all let me explain to you what happened in that petition drive to clear up a few misconceptions, no one including the sponsor having every spoken to me about this bill, perhaps you will learn a few things as well. We began collecting signatures on our petition drive effectively on election day. As Representative Coffman said he and a several other people, including other people in this body and in this legislature, including the other body, helped us as volunteers gather as many as we could on election day.

Now, this is an interesting petition drive, unlike many others in the past, because this drive sought to gather the signatures in the off year which thereby would place the question on the ballot during the election year when the politicians are also up for election and that was our specific strategy specifically to put it on at the same time that George Mitchell was on because we thought he had the capacity to raise a lot of money against us in 1995 if there was no way to neutralize him. So, if you really want to know, our strategy all along was to put it on the ballot with the politicians. So, doing it in the off year when very few people come out to vote you don't get as many signatures at the election.

So, you are faced at that point as virtually every petitioning organization has been faced with during the off year in the last ten years to go out and pay money. The ones that I can think of, the Sunday Sales group, Workers' Comp group tried to get something on the ballot and other, I believe they all paid per signature to help get that on the ballot. What happens is you are faced with winter coming and people, even though they may be committed as many were, don't really want to go out in 20 degree below weather. So, you pay them some money and say look, you can give up some of your job or whatever, go put some time in, help us out. We call the same people that volunteer first and gave them the opportunity to work.

Mr. Coffman is also right, we started out at 35 cents, called everybody and asked them if they wanted

to do that and worked it up and in the last week when we were looking at coming up with a little bit more dough to get us over the top or having to start over again we raised the amount to \$1.00 so the \$1.40 is really a myth which some people just love to perpetuate because a few people, I am talking literally a hand full of people out of 200 petitioners qualified for one week for that bonus which kicked a few of them to \$1.40.

That figure itself is interesting because for one week in their lives regular Maine people, most of whom were committed to the issue because they are the only ones that got the signatures really, you have to have it in your heart, they kept calling and saying, "How are we doing, are we going to get the signatures?" It wasn't just for the money. Some people would like to believe that but for one week in their life some of these people made \$400 or \$500 a week less than Ton Andrews makes every week, that is what you are talking about here in terms of the money.

The difference here in what is at stake is whether or not we want to take a socialist approach to petition paying or an incentive approach. Most of the Democrats, I guess, don't believe in an incentive relationship with production approach they would rather say no, you have to set up a bureaucracy, pay everybody by the hour so on and so forth.

By the way, just if you are ever thinking of doing a petition drive, if you are collecting at the polls it is more efficient to pay by the hour. But, if it is after election day and you need to go out into the field it is wiser to pay people by signature. Why? First of all how can you keep track of these people, they come back and say gee, I put 12 hours in today, how many signatures did you get? Ten.

You go out, say you are a contractor, take your petitions, go talk to people give them an opportunity to sign and bring back whatever you bring back and we pay you for what you produce. That is how business is supposed to work.

I know it is a hard concept for the Democrats to understand but the idea of incentive and producing is the way this country should be working.

Lastly, I am a bit offended that this bill was not put in a broader form. I am not going to talk about it at any length but I would like to see real campaign finance reform brought before this legislature and passed, not this nit-picking stuff which is essentially, in my opinion, and you can speak your own opinion, a harassment for the term limit petition. You may be.....

The SPEAKER: The Chair would recognize the Representative from Harpswell, Representative Coles, and ask for what purpose the Representative rises.

Representative COLES: Parliamentary inquiry, Mr. Speaker. Don't the rules of the House require that the speaker address the Speaker and not the people behind him or her?

The SPEAKER: The Chair would advise the Representative that in fact that would be appropriate and would caution Representative Michael of Auburn to confine his comments to the pending question which is acceptance of the Majority "Ought to Pass" Report.

The Chair apologizes for interrupting the Representative, the Representative may continue.

Representative MICHAEL: Mr. Speaker, I would be glad to address the Speaker and I apologize for making the mistake of following tradition rather than the technical rules.

I am just about done — I just want to say that if you really want to help the citizen process, the initiative process, then why don't we make it a little bit easier for the citizens of Maine to get on the ballot. How about reducing the number of signatures to five percent instead of ten percent especially in the off year when it is so difficult to get them.

Let me give you an example. Massachusetts, our parent state, where we came from originally, requires three percent, three percent signatures to get on the ballot, not ten percent and you can be from China and six years old and petition if you want. And, by the way, they can amend their state constitution, we can't. I say let's get some meat into this bill, where is the beef? Let's bring campaign finance in here and vote for it instead of hiding behind this phony bill.

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

Representative PFEIFFER: Mr. Speaker, I would pose a question through the Chair. I would like to inquire of those who were involved in the petition drive where the money came from to pay those who gathered the signatures?

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

The Chair recognizes the Representative from Auburn, Representative Michael.

Representative MICHAEL: Mr. Speaker, Men and Women of the House: Some of the money came from money we raised in Maine, most of it came from U.S. Term Limits a Washington based outfit which is essentially a political party, effectively, which does nothing but term limits. That is their issue, that is what they raise money for, that is what they contribute to.

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

Representative JALBERT: Mr. Speaker, I would pose a question through the Chair. In response to the last speaker when he answered the question of the gentlelady from Brunswick, I heard the gentleman from Old Town mention that there were a lot of volunteers, I would like to know what happened to that quarter of a million dollars which came out in the paper that some rich person on the coast donated to this cause?

The SPEAKER: The Chair would remind members to please confine their comments and questions and remarks to the issue at hand which is acceptance of the Majority "Ought to Pass" Report before us.

Representative Jalbert of Lisbon has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Auburn, Representative Michael.

Representative MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: It is my delight that \$250,000 got donated to the state term limit group, it had nothing to do with us and much of that went into the pockets of the organizers as opposed to the petitioners who did the work. I am also told one of those guys got a good job for Mitchell but I haven't been able to qualify that yet.

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

Representative TRACY: Mr. Speaker, I would pose a question through the Chair. To Representative

Michael of Auburn, during your previous previous talk when you were saying about signatures versus hours, you don't know if it was ten or twelve hours or whatever but with the signatures you could apparently tell the productivity. Are you implying that if they came back and said they worked 12 hours that you really didn't know if they worked 12 or if they didn't work 10 hours and are you not implying that these people aren't honest or what?

The SPEAKER: Representative Tracy of Rome has posed a question through the Chair to Representative Michael of Auburn who may respond if he so desires.

The Chair recognizes that Representative.

Representative MICHAEL: Mr. Speaker, Men and Women of the House: To answer Representative Tracy's question, the problem is that when you have a lot of people out in the field, say up to 200, petitioning all around the state, I don't know of any way of managing them unless you are going to hire 200 more people to follow them and keep track of their hours. The easiest way to do that is to say, look, bring back some bread and we will pay you for that. And, I believe I can answer a question to a person that asked the question.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: The last speaker, the gentleman from Auburn, keeps talking about it is perfectly all right to go out and pay someone to get petitions and signatures and so on. In the 115th I think I was on the Legal Affairs Committee because of some ballot tampering and so on, we passed legislation which forbids the candidate from obtaining absentee ballots. I remember one of the gentlemen that is now in the other body got up in the back, the good gentleman from Eastport, said if Aunt Mary is in a nursing home and wants me to get her absentee ballot I can't do it. A candidate for office cannot obtain absentee ballots. Even had a gentleman from Auburn who is in the other body who could not even use his secretary to get absentee ballots for himself because she was working for him. Now, it is perfectly all right for the gentleman from Auburn to say that we should pay someone to get petitions and pay them so much a signature. Now, he should be the one being on that committee and talked about election reform — we did have election reforms but apparently we should have stopped not at that time and kept on going.

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

A vote of the House was taken.

Representative Kilkelly of Wiscasset requested a roll call vote.

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

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

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

Representative MICHAEL: Mr. Speaker, Men and Women of the House: A couple of points I want to have on the Record. First of all there are other petitioning groups that are very concerned about this bill. I can see that it is likely to pass but I want you to know that they have understood also that their well being depends on being able to pay people to petition from time to time.

Secondly, I think it was the Myers Grant case quoted — in fact that is the case which declared a Colorado law unconstitutional, that same case makes it very clear that this bill also will be unconstitutional. That is my opinion on it and the opinion of people around the country. So, even when this passes groups will still be able to collect signatures and pay by whatever means they want to pay.

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

Representative KILKELLY: Mr. Speaker, I would pose a question through the Chair. To the Representative from Auburn, has this particular option been tested in the courts to your knowledge?

The SPEAKER: Representative Kilkelly of Wiscasset has posed a question through the Chair to Representative Michael of Auburn who may respond if he so desires.

The Chair recognizes that Representative.

Representative MICHAEL: Mr. Speaker, Men and Women of the House: I can tell the Representative from Wiscasset that since the Myers Grant case there have been literally hundreds of organizations around the country that have continued to pay by signature. I don't think anybody cares to challenge it because the ruling is quite clear, except for a few people.

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

ROLL CALL NO. 259

YEA - Adams, Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Bowers, Brennan, Bruno, Cameron, Campbell, Carleton, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Coles, Constantine, Cote, Cross, Daggett, Dexter, Dipietro, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Farnsworth, Farnum, Farren, Fitzpatrick, Foss, Gamache, Gean, Gould, R. A.; Greenlaw, Hale, Hatch, Heesch, Heino, Hichborn, Hogle, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Joy, Kerr, Ketterer, Kilkelly, Kneeland, Kontos, Larrivee, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Look, Lord, MacBride, Marsh, Martin, J.; Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Norton, O'Gara, Oliver, Paradis, P.; Pendexter, Pendleton, Pfeiffer, Pinette, Plourde, Plowman, Poulin, Pouliot, Rand, Reed, G.; Richardson, Ricker, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Tardy, Thompson, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Tufts, Vigue, Walker, Winn, Zirkilton, The Speaker.

NAY - Barth, Bennett, Birney, Carr, Clukey, Coffman, Gray, Lipman, Marshall, Michael, Nickerson, Robichaud, Taylor, True, Wentworth, Whitcomb, Young.

ABSENT - Beam, Faircloth, Hillock, Kutasi, Martin, H.; Melendy, Ott, Pineau, Reed, W.; Rotondi, Treat. Yes, 123; No, 17; Absent, 11; Paired, 0; Excused, 0.

123 having voted in the affirmative and 17 in the negative, with 11 being absent, the Majority "Ought to Pass" Report was accepted.

The Bill read once. Committee Amendment "A" (H-881) was read by the Clerk and adopted. The Bill assigned for second reading later in today's session.

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-885) on Bill "An Act to Reestablish a Mechanism for Review of Disputed Elections" (H.P. 1418) (L.D. 1932)

Signed:

Senators: HALL of Piscataquis
CAREY of Kennebec

Representatives: LEMKE of Westbrook
MICHAEL of Auburn
STEVENS of Sabattus
BENNETT of Norway
NASH of Camden
ROBICHAUD of Caribou
TRUE of Fryeburg

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

Signed:

Senator: HANDY of Androscoggin

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 Not to Pass" Report.

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

CONSENT CALENDAR

First Day

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

(H.P. 1291) (L.D. 1739) Bill "An Act Regarding the Workers' Compensation Residual Market Mechanism" (EMERGENCY) Committee on Banking & Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-887)

There being no objections, the above item was 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. 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)

(S.P. 466) (L.D. 1458) Bill "An Act to Clarify the Role and Purpose of the Maine State Retirement System" (EMERGENCY) (C. "A" S-475)

(S.P. 574) (L.D. 1616) Bill "An Act to Make Changes to the Public Utilities Commission Laws" (C. "A" S-465)

(S.P. 576) (L.D. 1620) Bill "An Act to Reinstate the State Eye Care Program" (C. "A" S-477)

(S.P. 582) (L.D. 1626) Bill "An Act Concerning Health Insurance" (C. "A" S-441)

(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" (C. "A" S-448)

(S.P. 605) (L.D. 1703) Bill "An Act Concerning the Payment of Medical Expenses in Controverted Workers' Compensation Cases" (C. "A" S-471)

(S.P. 640) (L.D. 1774) Bill "An Act to Create the Maine Office Development Authority" (C. "A" S-467)

(S.P. 641) (L.D. 1788) Bill "An Act to Reduce the Property Tax Burden in Androscoggin County" (C. "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" (C. "A" S-458)

(S.P. 670) (L.D. 1838) Bill "An Act to Establish the Door-to-door and Telemarketing Consumer Solicitation Sales Act" (C. "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" (C. "A" S-462)

(S.P. 698) (L.D. 1896) Bill "An Act to Correct the Implementation of Recent Changes to the Retirement Laws" (EMERGENCY) (C. "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" (C. "A" S-464)

(S.P. 703) (L.D. 1900) Bill "An Act to Establish a New Valuation on Sears Island" (EMERGENCY) (C. "A" S-451)

(S.P. 715) (L.D. 1930) Resolve, to Create the Blue Ribbon Commission on Hunger and Food Security (C. "A" S-476)

(H.P. 1015) (L.D. 1361) Bill "An Act to Define Responsibilities of the Commission on Biotechnology and Genetic Engineering" (C. "A" H-877)

(H.P. 1312) (L.D. 1767) Bill "An Act to Acquire Lake and Ocean Frontage to be Preserved for the Public" (C. "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" (C. "A" H-878)

(H.P. 1437) (L.D. 1963) Resolve, to Enhance the Development of Alternative Uses of Maine Agriculture and Forestry Products (C. "A" H-874)

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

(S.P. 240) (L.D. 733) Bill "An Act to Amend the Laws Governing Protective Custody" (C. "A" S-469)

On motion of Representative BAILEY of Township 27, was removed from Second Day Consent Calendar.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-469) was read by the Clerk.

Representative BAILEY of Township 27 presented House Amendment "A" (H-873) to Committee Amendment "A" (S-469) which was read by the Clerk and adopted.

Committee Amendment "A" (S-469) as amended by House Amendment "A" (H-873) thereto was adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-469) as amended by House Amendment "A" (H-873) thereto in non-concurrence and sent up for concurrence.

(S.P. 612) (L.D. 1710) Bill "An Act to Simplify the State's Liquor Tax" (C. "A" S-456)

On motion of Representative DAGGETT of Augusta was removed from Second Day Consent Calendar.

Report was read.

On motion of Representative DAGGETT of Augusta, tabled pending the motion to accept the Committee Report and later today assigned.

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Amend the Growth Management Laws Concerning Dimensional Variances" (H.P. 1369) (L.D. 1853) (H. "A" H-875 to C. "A" H-827)

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.

Bill "An Act to Clarify Plumbing Permit Fees" (EMERGENCY) (H.P. 1215) (L.D. 1634) (C. "A" H-876)

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

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

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

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative TARDY from the Committee on Taxation on Bill "An Act to Establish the Municipal Cost Component for Unorganized Territory Services to Be Rendered in Fiscal Year 1994-95" (EMERGENCY) (H.P. 1410) (L.D. 1920) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-890)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-890) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

Representative Young of Limestone was granted permission to address the House.

Representative YOUNG: Mr. Speaker, I was absent for roll call No. 256 this morning. Had I been present and voting, I would have voted no.

The House recessed at 12:00 p.m. until 4:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

CONSENT CALENDAR

Second Day

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

(H.P. 1291) (L.D. 1739) Bill "An Act Regarding the Workers' Compensation Residual Market Mechanism" (EMERGENCY) (C. "A" H-887)

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

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Amend the Laws Concerning Emergency 911" (S.P. 452) (L.D. 1419) (C. "A" S-452)

Bill "An Act to Amend the Petroleum Market Share Act" (S.P. 596) (L.D. 1655) (C. "A" S-455)

Bill "An Act to Amend Certain Motor Vehicle Laws" (H.P. 1270) (L.D. 1697) (C. "A" H-886)

Bill "An Act to Amend the Laws that Deal with the Protection of Natural Resources" (S.P. 619) (L.D. 1721) (C. "A" S-447)

Bill "An Act to Clarify the Appropriate Secular Observance of Religious Holidays in Maine Schools" (S.P. 704) (L.D. 1901) (C. "A" S-459)

Bill "An Act to Establish the Municipal Cost Component for Unorganized Territory Services to Be Rendered in Fiscal Year 1994-95" (EMERGENCY) (H.P. 1410) (L.D. 1920) (C. "A" H-890)

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

Bill "An Act to Improve Licensing Procedures at the Bureau of Insurance" (H.P. 1414) (L.D. 1924) (Governor's Bill) (C. "A" H-884)

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

On motion of Representative PINEAU of Jay, was set aside.

On further motion of the same Representative, tabled pending passage to be engrossed as amended and specially assigned for Thursday, March 24, 1994.

Bill "An Act to Promote Integrity in the Citizens Petition Process" (H.P. 1417) (L.D. 1931) (C. "A" H-881)

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

On motion of Representative BENNETT of Norway, was set aside.

On further motion of the same Representative, tabled pending passage to be engrossed as amended and specially assigned for Thursday, March 24, 1994.

ENACTORS

Emergency Measure

An Act to Apportion Districts for the Election of County Commissioners (H.P. 1285) (L.D. 1733) (H. "A" H-758 and S. "A" S-436 to C. "A" H-741)

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. 114 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 Improve the Notice Provisions for Municipal Development Districts (S.P. 629) (L.D. 1749) (H. "A" H-816)

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. 114 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 Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending June 30, 1995 (H.P. 1332) (L.D. 1795) (C. "A" H-807)

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. 119 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 Revise Certain Fish and Wildlife Laws (H.P. 1338) (L.D. 1801) (Governor's Bill) (C. "A" H-804)

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. 115 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 Concerning the Importation of Salmon (S.P. 685) (L.D. 1871) (C. "A" S-426; S. "A" S-433)

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. 122 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 Redistrict the Knox County Budget Committee District (H.P. 1411) (L.D. 1921)

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. 125 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

Resolve, for Laying of the County Taxes and Authorizing Expenditures of York County for the Year 1994 (H.P. 1444) (L.D. 1971)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and 0 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Mandate

An Act to Extend the Sagadahoc County Budget Advisory Committee (H.P. 1348) (L.D. 1814) (C. "A" H-810)

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

An Act to Repeal the Sunset on Rating Practices in Small Group Health Plans and Individual Health Insurance (H.P. 1207) (L.D. 1615)

An Act to Allow the Growth and Sale of Cultivated Ginseng in Maine (H.P. 1236) (L.D. 1663) (H. "A" H-824 to C. "A" H-761)

An Act Regarding the Regional Mental Health Authority Demonstration (H.P. 1240) (L.D. 1667) (C. "A" H-803)

An Act Requiring the Courts to Report to Corrections Facilities Concerning Balances Owed to the Victims' Compensation Fund (H.P. 1250) (L.D. 1677) (C. "A" H-802)

An Act to Encourage the Establishment or Expansion of Certain Residency Programs Relating to Emergency Medicine Physicians (H.P. 1254) (L.D. 1681) (C. "A" H-796)

An Act to Exempt Schools from Certain Fees (H.P. 1287) (L.D. 1735) (C. "A" H-797)

An Act to Make Certain Revisions to the Maine Emergency Medical Services Act of 1982 (S.P. 646) (L.D. 1805) (H. "A" H-821 to C. "A" S-420)

An Act to Expedite Oil Spill Response Activities (H.P. 1390) (L.D. 1888) (C. "A" H-808)

Resolve, to Study the Availability and Sources of Venture Capital in Maine (S.P. 656) (L.D. 1825) (C. "A" S-435)

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

An Act to Allow the Use of Advanced Lightweight Beverage Containers (H.P. 193) (L.D. 256) (C. "B" H-798)

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

On motion of Representative COLES of Harpswell, was set aside.

The same Representative requested a division on passage to be enacted.

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

A vote of the House was taken.

Representative GRAY of Sedgwick requested a roll call on passage to be enacted.

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: A roll call has been ordered. The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 260

YEA - Ahearne, Aikman, Anderson, Ault, Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Carleton, Caron, Carroll, Cashman, Clark, Clement, Cloutier, Clukey, Coffman, Cote, Cross, Dexter, Dipietro, Donnelly, Driscoll, Dutremble, L.; Erwin, Farnum, Farren, Foss, Gamache, Gould, R. A.; Greenlaw, Hatch, Heino, Hichborn, Hussey, Jacques, Jalbert, Johnson, Joseph, Joy, Kerr, Ketterer, Kneeland, Lemont, Libby Jack, Libby James, Lipman, Look, Lord, MacBride, Marsh, Marshall, Michaud, Morrison, Murphy, Nadeau, Nash, Nickerson, Norton, O'Gara, Ott, Paradis, P.; Penderter, Pineau, Pinette, Plourde, Plowman, Poulin, Reed, G.; Reed, W.; Ricker, Robichaud, Rotondi, Ruhlin, Simoneau, Small, Spear, Stevens, A.; Strout, Swazey, Tardy, Taylor, Thompson, Townsend, G.; True, Tufts, Vigue, Whitcomb, Young, The Speaker.

NAY - Adams, Beam, Bowers, Brennan, Cathcart, Chase, Coles, Constantine, Daggett, Dore, Faircloth, Farnsworth, Fitzpatrick, Gean, Gray, Hale, Heeschen, Hognlund, Holt, Kilkelly, Kontos, Larrivee, Lemke, Lindahl, Martin, J.; Michael, Mitchell, E.; Mitchell, J.; Oliver, Pendleton, Pfeiffer, Rand, Richardson, Rowe, Rydell, Saxl, Simonds, Skoglund, Stevens, K.; Townsend, E.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Winn.

ABSENT - Aliberti, Bailey, H.; Campbell, Carr, Chonko, Hillock, Kutasi, Martin, H.; Melendy, Pouliot, Saint Onge, Sullivan, Zirkilton.

Yes, 92; No, 46; Absent, 13; Paired, 0; Excused, 0. 92 having voted in the affirmative and 46 in the negative, with 13 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

UNFINISHED BUSINESS

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

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

TABLED - March 22, 1994 (Till Later Today) by Representative ZIRNKILTON of Mt. Desert.

PENDING - Motion of Representative MARTIN of Eagle Lake to indefinitely postpone Bill and All Accompanying Papers.

On motion of Representative MARTIN of Eagle Lake, retabled pending his motion to indefinitely postpone

Bill and all accompanying papers and specially assigned for Thursday, March 24, 1994.

An Act to Establish the Lobster Promotion Council as a Public Instrumentality (EMERGENCY) (H.P. 1199) (L.D. 1607) (H. "A" H-795 to C. "A" H-774)
 TABLED - March 22, 1994 (Till Later Today) by Representative MITCHELL of Freeport.
 PENDING - Passage to be Enacted. (Roll Call Requested)

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

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

ROLL CALL NO. 261

YEA - Adams, Aikman, Aliberti, Ault, Bailey, H.; Beam, Bennett, Birney, Bowers, Campbell, Carleton, Caron, Carroll, Cashman, Chase, Chonko, Clement, Cloutier, Coles, Constantine, Cote, Cross, Daggett, Dipietro, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farnum, Fitzpatrick, Foss, Gamache, Gean, Hale, Hatch, Heeschen, Heino, Hochborn, Hoglund, Hussey, Jacques, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Larrivee, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Marsh, Marshall, Martin, J.; Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, O'Gara, Oliver, Ott, Paradis, P.; Pendexter, Pfeiffer, Pineau, Pinette, Plourde, Plowman, Pouliot, Rand, Reed, G.; Richardson, Ricker, Rotondi, Ruhlin, Rydell, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, K.; Strout, Swazey, Tardy, Taylor, Townsend, E.; Townsend, G.; Townsend, L.; Treat, Tufts, Vigue, Walker, Wentworth, Whitcomb, Winn, Young, The Speaker.
 NAY - Anderson, Bailey, R.; Bruno, Cameron, Cathcart, Clark, Clukey, Farren, Gray, Greenlaw, Holt, Jalbert, Joy, Kneeland, Lemke, Look, Lord, MacBride, Michael, Nash, Nickerson, Norton, Poulin, Reed, W.; Robichaud, Saxl, Stevens, A.; Thompson, Tracy, True.

ABSENT - Ahearne, Barth, Brennan, Carr, Coffman, Dexter, Gould, R. A.; Hillock, Kontos, Kutasi, Martin, H.; Melendy, Pendleton, Rowe, Saint Onge, Sullivan, Zirkilton.

Yes, 104; No, 30; Absent, 17; Paired, 0; Excused, 0.

104 having voted in the affirmative and 30 in the negative, with 17 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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 22, 1994 (Till Later Today) by Representative MELENDY of Rockland.
 PENDING - Passage to be Engrossed.

Representative MITCHELL of Freeport presented House Amendment "A" (H-850) which was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-806) and House Amendment "A" (H-850) and sent up for concurrence.

An Act Regarding the Custody of Remains of Deceased Persons (S.P. 553) (L.D. 1577) (C. "A" S-417)
 TABLED - March 22, 1994 (Till Later Today) by Representative COTE of Auburn.
 PENDING - Passage to be Enacted.

On motion of Representative COTE of Auburn, retabled pending passage to be enacted and specially assigned for Thursday, March 24, 1994.

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 22, 1994 (Till Later Today) by Representative JACQUES of Waterville.
 PENDING - Reference.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph. Representative JOSEPH: Mr. Speaker, do the provisions of Joint Rule 37 apply to L.D. 1893?

Subsequently, the Resolution was tabled pending a ruling from the Chair.

HOUSE REPORT - "Ought to Pass" as amended by Committee Amendment "A" (H-872) - Committee on State and Local Government on Bill "An Act Creating the York County Budget Advisory Committee" (H.P. 1351) (L.D. 1817)
 TABLED - March 22, 1994 (Till Later Today) by Representative GEAN of Alfred.
 PENDING - Acceptance of Committee Report.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Dutremble.

Representative DUTREMBLE: Mr. Speaker, Ladies and Gentlemen of the House: My good friend, Representative Gean's amendment, gives the York County Commissioners the final approval on the York County budget, which I am apposed to very much. Under the State and Local Government amendment the advisory board has the final say on the York County budget. From 1959 to 1973 I served as a York County Commissioner and the amendment that came out of the State and Local Government is a proposal I could have lived with. Please vote no on the motion on the floor.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I have to vote no on the pending motion on the floor. As the good Representative from Biddeford explained to you the

amendment that came out of the State and Local Government was unanimous, less one person now. The amendment, as originally written has the budget committee review the budget, then they make the determination after the County Commissioners make recommendations. Under this amendment the budget committee would not be the committee, it would be an advisory committee. You do not have an advisory committee appointed by your County Commissioners to go over your budget. I know if I were a Commissioner and say I don't like your advise so I am not going to do it. So, this way the original amendment sets up that budget committee made up of municipal elected officials to serve on that and that is the way the majority of the county would like to see it stay.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: I would just like to clarify for the members that this is the Committee Report, this is the report we want to accept. Please vote yes on the Committee Report.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Dutremble.

Representative DUTREMBLE: Mr. Speaker, Men and Women of the House: Support the Committee Report and vote like Representative Murphy just mentioned, yes.

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

Committee Amendment "A" (H-872) was read by the Assistant Clerk.

Representative Gean of Alfred moved that Committee Amendment "A" (H-872) be indefinitely postponed.

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

Representative GEAN: Mr. Speaker, Men and Women of the House: As you can see there is plenty of interest in this amendment and the bill so we could be here all night.

The reason I am opposed to this amendment being attached to the bill that I submitted is that the amendment violates the intent of the original L.D..

The intent of the L.D. as I submitted it was to create an advisory committee made up of two-thirds elected municipal officials, one-third of representatives at large and they would provide the function of advising the County Commissioners during the budget process. When this got to the committee it was talked about a great deal, a lot happened, this amendment ended up on it.

I have to be honest with you and point out that during a York County delegation committee meeting I did in fact agree to this amendment, that was prior to the receipt of a letter from the Chairman of the York County Board of Commissioners for whom I had submitted the bill in the first place. I would like to read that letter to you.

Addressed to Representative Murphy, "It has recently come to the attention of the Board of York County Commissioners that there are several proposed amendments to the budget committee concept bill for York County.

While we supported the initial concept of this proposed legislation, we feel that we can no longer support the budget committee as we understand it to have been modified. We are not attempting to be difficult but feel that there may be too many unanswered questions regarding the composition and

authority of this committee to make it feasible at this time.

Among our concerns is that 1995 will result in the transition from a three member to a five member board of County Commissioners. The study of a more equitable distribution of the cost of law enforcement activities will be under way. Many veteran elected officials will be leaving county government and their replacements would not be afforded the opportunity of having budget input and many veterans support staff will also be leaving county government.

The collective impact of these changes all occurring at the same time as a change in the budget preparation and approval process may prove overwhelming.

We will pledge our efforts to cooperate with municipal officials and legislators on budget issues both now and in the future but it is our unanimous opinion that we are unable to support the current proposed legislation for a York County Budget Committee as we understand it to exist.

Respectfully, Frank Wood, Chairman, York County Commissioners."

Having received this letter, I have taken the position that I can no longer support that which was agreed upon by the delegation and understanding the point of the Commissioners, I respectfully request that you join me in getting rid of this amendment so that we can continue with the bill as originally presented which would set up an advisory committee to the County Commissioners, made up of two-thirds elected municipal officials, one-third at large members of York County community to advise, not control, the county budgeting process.

The amendment we have before us provides for that same sort of make-up but it is made up of two-thirds elected officials, two-thirds having the authority to override all of the County Commissioners in a budget dispute. Therefore the power and authority of creating the county budget transfers from the County Commissioners to two-thirds of this committee which happens to be municipal officials. If we were going to pursue this line of thought we ought to continue with another amendment just to get rid of the County Commissioners. If they do not have control over the budget, there is very little need for them to be in place.

Mr. Speaker, I request a roll call.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: It is true that this is a Committee Amendment out of the State and Local Government Committee but what this Committee Amendment does is establish a budget committee in York County. The original one, the one that was presented to the committee let the county commissioners select three people of their district to belong to that committee and it was an advisory committee. Well, in my opinion, that is like having the fox watch the chicken coop. If I am going to have a budget committee to oversee my budget, I would love to pick them because I know that they are going to vote everything that I want. This is something that the delegation as a whole felt they didn't want.

What this does is establish a budget committee. We have already voted in the last session here in the 115th to have five county commissioners and this budget committee has three people from each commission district. Two have to be elected

municipal officials and one public person and they all have to come from different municipalities.

On September 15th the municipal officials in that district have to to caucus and they have to elect among themselves the two municipal officials and the public person. This budget committee also sets up that a member of the delegation, the delegation from York County, the legislative delegation also meets and they elect one person to represent them but they are a non-voting member. All they do is set and listen in on the budget procedure but they serve as a non-voting member.

The budget committee elects its own chair, we have nothing to do with that. And the budget procedure — the county commissioners still draw up the budget and present it to this committee and they have to do that before 60 days before the end of the year. The budget committee reviews that budget the same as the legislative delegation reviewed it. The only difference is they have more time to review this budget and to go over it and to meet with them back in the county because they are there to meet and those of us who are up here we have a hard time meeting back home because we are only there on weekends or at least most of us and it is hard to get 26 of us together on a Saturday morning to meet with the county commissioners.

We think this way there will be 15 members of this budget committee, they will have the opportunity to meet and to discuss these things and work with the County Commissioners on this budget. They will have to have a public hearing on it just the same as they do now and once they adopt that budget and present it back to the county commissioners it can still be changed. It can only be changed by majority vote of the County Commissioners and two-thirds of budget committee. So, I think that is very fair. The County Commissioners had a big to-do and they didn't want anything more to do with the legislative delegation.

I was not one who was really enthused about taking it away from the legislative delegation but the largest majority of the delegation, in fact, I think everybody but me, wanted to get rid of it. I said, fine, I have no problem as long as we have the opportunity of putting a budget committee together that we think will scrutinize the county budget. And, if the budget is not approved by the first of the year they have to work on 80 percent of the previous year.

I think that this is a good budget committee which was drawn up by the State and Local Government Committee. I think they have done an excellent job. We put a lot into it, we talked to other counties who already have a budget committee and this follows along the line of some of the others.

I understand the County Commissioners want complete control of the county budget and I don't think that is the way that any county should go because they do not have to answer directly to the municipal officials, this way they have to answer to municipal officials who have to worry about municipal budgets.

I thank you for listening and I hope that you would vote no on the indefinite postponement.

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

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: Many of you may remember during

the last Regular Session, the York County Delegation subjected you to a long and nauseating debate on the budget and a squabble was eventually resolved with a major change in the budget and at the same time the delegation agreed to pursue a different approach to try in the future and not subject you all to those squabbles that we have in York County about our budget process.

Unfortunately, the result that was created by the State and Local Government Committee does not totally eliminate the squabble. Representative Gean has made a motion that perpetuates this squabble but I think it is worthy. All this new process will do, as proposed by the Committee Amendment is transfer the squabble that is taking place here in this body to York County and confine it to York County which some of you may say is a good move.

I would suggest that if we indefinitely postpone the Committee Amendment and went with the original bill that same transfer of the squabble to York County would take place only it would leave the Commissioners with their rightful duties to oversee the budget process and have the final say. York County, much like many other counties, we do elect our County Commissioners and one of their responsibilities is oversight of the budget. If we go with the Committee Amendment which I do not agree with I think we would simply transfer the power for resolving the budget to a group that is not elected to represent the county as a whole and is only elected to represent individual municipalities. I don't think that is the route we should be going.

I hope you would support indefinite postponement of Committee Amendment "A".

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I won't repeat what I said before, which should have been said now. Let me assure you we are very pleased to have this squabble, as so referred to by the good Representative from Kennebunkport, in York County and not before this august body. I don't know how your budget committees work but I am sure that we didn't come across one that was advisory to the commissioners, they were a budget committee. The budget committee is not going to create the budget, they are just going to approve the budget or disapprove it. But, they will be working with municipal officials instead of the legislative delegation.

If we find this is not working as well as anticipated we will do exactly as Kennebec County did and have it become advisory committee to the delegation, but certainly not to the Commissioners.

I urge you to vote no on the pending motion on the floor.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: The policy of the State and Local Government Committee is to listen to hopefully unanimous opinion of each of the counties. It sounds like they may be divided but I would urge you to listen to the majority of the York County Delegation and we try to craft advisory or budget committees to their liking. Therefore I would urge you to support the majority of the delegation from York County.

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

Representative GEAN: Mr. Speaker, Men and Women of the House: The problem here is we have not been able to resolve this squabble, obviously. Last year was a fiasco, the year before last — but here we are, right back in the middle of it again. I think then it means that we really ought to go back and try to figure out how to put this thing together following the lead of the Representative from Sanford. But, to pass this amendment, gives absolute budget control to two-thirds of this committee that the amendment would set up. The Commissioners would have little or no authority to do business regarding the budget or any other item then in York County. That is what is at stake here. We either get rid of this amendment or get rid of the commissioners because you can't have both trying to occupy the same space.

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

The SPEAKER: The pending question before the House is the motion of Representative Gean of Alfred that Committee Amendment "A" (H-872) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 262

YEA - Adams, Beam, Bowers, Bruno, Cashman, Cathcart, Chase, Coles, Farnsworth, Fitzpatrick, Gean, Hichborn, Holt, Johnson, Ketterer, Larrivee, Mitchell, J.; Oliver, Pfeiffer, Richardson, Rydell, Simonds, Treat, Wentworth.

NAY - Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Brennan, Cameron, Carleton, Caron, Carroll, Chonko, Clark, Clement, Cloutier, Clukey, Constantine, Cote, Cross, Daggett, Dexter, Dipietro, Donnelly, Dore, Dutremble, L.; Erwin, Faircloth, Farnum, Farren, Foss, Gamache, Gray, Greenlaw, Hale, Hatch, Heeschen, Heino, Hoglund, Hussey, Jacques, Jalbert, Joseph, Joy, Kerr, Kilkelly, Kneeland, Lemke, Lemont, Libby Jack, Libby James, Lipman, Look, Lord, MacBride, Marsh, Marshall, Martin, J.; Melendy, Michael, Michaud, Mitchell, E.; Murphy, Nadeau, Nash, Nickerson, Norton, O'Gara, Ott, Paradis, P.; Pendexter, Pendleton, Pineau, Pinette, Plourde, Plowman, Poulin, Pouliot, Rand, Reed, G.; Reed, W.; Ricker, Robichaud, Rotondi, Ruhlin, Saxl, Simoneau, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Swazey, Tardy, Taylor, Thompson, Townsend, G.; Townsend, L.; Tracy, True, Tufts, Vigue, Walker, Whitcomb, Winn.

ABSENT - Campbell, Carr, Coffman, Driscoll, Gould, R. A.; Hillock, Kontos, Kutasi, Lindahl, Martin, H.; Morrison, Rowe, Saint Onge, Sullivan, Townsend, E.; Young, Zirnkilton, The Speaker.

Yes, 24; No, 109; Absent, 18; Paired, 0; Excused, 0.

24 having voted in the affirmative and 109 in the negative, with 18 being absent, the motion to indefinitely postpone Committee Amendment "A" (H-872) did not prevail.

Subsequently, Committee Amendment "A" (H-872) was adopted and the Bill assigned for second reading Thursday, March 24, 1994.

HOUSE DIVIDED REPORT - Majority (6) "Ought Not to Pass" - Minority (5) "Ought to Pass" as amended by Committee Amendment "A" (H-830) - Committee on Legal Affairs on Bill "An Act to Ensure Appropriate and Equitable Penalties for Violation of Electoral Laws" (H.P. 1311) (L.D. 1766)
TABLED - March 22, 1994 (Till Later Today) by Representative DAGGETT of Augusta.
PENDING - Motion of same Representative to accept the Minority "Ought to Pass" as amended Report.

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

Representative ROBICHAUD: Mr. Speaker, Colleagues of the House: This bill — well, let me backtrack. If you recall, last year there was an incredible effort by both members of this legislature, specifically the Legal Affairs Committee as well as a special commission put together by Secretary of State Bill Diamond, to look at the electoral process and to tighten it up and make sure we have a very strong process and increased penalties for ballot tampering. In that bill we had some controversial elements, it ended up going to a conference committee and many of the proposals that were initially presented by the special commission from the Secretary of States' office endorsed by the Legal Affairs Committee were then dropped in conference committee. One of the few sections that remained dealt with penalties for ballot tampering. That was last June.

We now have before us a bill that would reduce those penalties that we increased last year. The proponents of this bill say that their reason for coming forward and wanting to reduce the penalties is that they are not consistent with other penalties in the criminal code. My argument to you is that we took a stand last year, we made an effort to revise the criminal code to improve the criminal code that to now nullify those changes from last year because they do not conform to the old code (which we were seeking to improve) I think is definitely a step backward in more than one way.

I would implore you to please take to the heart the measures that we as a legislature passed last year and we endorsed the idea that ballot tampering was not an offense that the Maine Legislature was going to take lightly. I would ask you to please oppose the Minority "Ought to Pass" Report so we can go on to accept the Majority, Majority, "Ought Not to Pass" Report.

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

Representative STEVENS: Mr. Speaker, Men and Women of the House: I would like to add a little bit more to that. We put a lot of time in on our commission and also on the Legal Affairs Committee. If we reduce the crime back from C to D they will be served in your county jails and be added to your property tax.

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

Representative LARRIVEE: Mr. Speaker, Men and Women of the House: The first thing that I would

like to say to you is I do applaud the work that the commission did in bringing this "ballot tampering bill" forward to this body last year. I would let you know that there is nothing in this bill that is currently before you that changes the penalty for ballot tampering. That remains a Class C crime, that does not change with this bill.

When this bill came before us last year I took a look at it from my perspective on the Corrections Committee and I looked at the comparative severity of the crimes that were listed in the bill as presented to us and the current criminal code. I asked the Criminal Law Advisory Commission if they would please review the bill. The Criminal Law Advisory Commission is a commission set up in state law for the specific purpose of continuing to study criminal law in the State of Maine. The commission has nine members on it, they are qualified in prosecution or defense of criminal cases, knowledge of juvenile law, a number of different qualification for the people who serve on this committee.

To let you know who is on it, I have the membership list here. Its Chair is Paul Gauvreau, the former Senator; John Attwood, Commissioner of Public Safety; Martha Harris who is with Paine, Lynch and Harris; Lawrence Gardner; Melvin Zarr, Professor of the University of Maine; District Attorney, Deputy District Attorney, Charlie Leadbetter, Assistant Attorney General; consultants to the Criminal Law Advisory Commission are the Honorable Robert Clifford, who is a justice to the Supreme Judicial Court; Bruce Chandler, Superior Court. In other words, this is a group of people whose specific responsibility is to look at the criminal law as it is devised in the State of Maine.

When they looked at the bill they provided a report to me which I made available at the very end of last session but did not propose the bill only because we were in the waning days of the session and I did not want to try and look at each one of the criminal activities provided for in that bill one by one at that time. However, in the Report from the Criminal Law Advisory Committee it states that members of the commission were unanimous that amendments to the legislation were in order. It appears that the legislation is over-broad in that it imposes criminal sanctions and that is exactly the reason that I went ahead and made the recommendations for changes that I brought to the Legal Affairs Committee.

Some of the specifics, and I won't, if you read the statement of fact, I think it is very clear and I won't read that to you but some of the specific things that we are talking about, making criminal offenses, not civil offenses, are such things as a delay in registration. The bill addresses a concern that causing a delay in registration enrollment or delivery of absentee ballots or applications is a crime if done with the intent to prevent a person from voting. They have made that a class C crime. Ladies and gentlemen, class C crimes are very serious felony crimes. Class C crimes are such things as workplace manslaughter, gross sexual assault, unlawful sexual contact. Now, although I realize that tampering with an absentee ballot or carrying a pager with you when you go into a voting place are serious issues and ought to be looked at, however, they are not issues of that severe a criminal activity.

I submit to you that the changes that have been made that are addressed by this bill simply bring these in line with our current criminal code so that we are not adding felony or making felons out of, for instance, a town clerk who misses a deadline.

One of the pieces of that legislation as it was originally offered is that everything in the whole title section 21, if you did not abide by it was a criminal offense, not a civil offense. That would be everything from your town clerk missing a certain deadline. Now, although these are serious issues they are not issues of that level.

I would ask you to please support the pending motion and if there are specific questions about individual pieces I would be more than glad to answer them.

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

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: This whole issue is a bit of a battle between the commissions, the Secretary of States' Commission and between the Criminal Law Advisory Commission and it is up to us, the legislature, as we did last year in the Legal Affairs Committee to make the distinctions and to make the final determinations about what we think are the most appropriate penalties for crimes. I think we did that last year and I think we did that effectively.

Let me just tell you why I am troubled a little bit with the memo that came out of the Criminal Law Advisory Commission dated June 25, 1993 from Paul Gauvreau who is the Chair and why I believe that this issue probably does need some review but shouldn't be done this year and shouldn't be done by this legislature which is has already acted on this issue.

Let me share with you a couple of sections from the memo. It he says, I am quoting, "Further, the Commission questions whether it is appropriate to make it a felony Class C offense for a candidate to deliver or receive an absentee ballot in these circumstances. While the Commission recognizes the propriety of making such conduct illegal it questions whether this conduct merits a Class C classification which would be punishable by five years in prison." There is no recommendation there, it is a questioning.

I appreciate the Criminal Law Advisory Commission questioning the work of the Legislature. I think it is appropriate that a lot of people question the work of the Legislature but I don't think that it is in the commissions interest or in the Legislatures interest to have them question something and leave it there without making a recommendation. These issues are too important to the integrity of our democracy to leave them open.

Another section from the memo says "Of more concern," this is dealing with a different issue now, "this language makes it a Class C offense either to tamper with a voting device or attempt to tamper with a voting device." Generally in criminal law an attempt is classified one classification below the actual act. Thus in this case, if the act of tampering with a voting device were a Class C an attempt to commit that act would be a Class D. Well, again, that may be a general rule but there are specific reasons why last year this legislature, the Legal Affairs Committee in this Legislature decided to have that a Class C. Perhaps the Criminal Law Advisory Commission and their advise and their recommendation should have been brought into this debate last year, it should have been brought in

earlier. But, they didn't, for one reason or another, they didn't, their participation was extremely late. I find it in many respects vague, as I stated earlier, where their questioning and not giving a specific recommendation and as I have said, this probably needs review and no issue in the legislature is ever dealt with completely, finally, for all time. But, it shouldn't be done in this legislature.

I have heard the complaints this year on many bills about bills recently, today and yesterday, that they deal with issues that the legislature already dealt with. If any bill is a violation of Joint Rule 37 it would be this bill.

We have debated all these, as I said, last year. We ought to have the minimum decency to wait until the next legislature next year before we start revamping, reforming or repealing the additional safeguards to our democracy that we just gave the people last year.

Representative Whitcomb of Waldo requested a roll call vote.

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

Representative LARRIVEE: Mr. Speaker, Men and Women of the House: The only point that I will add is that I in no way intend to make light of the recommendations of the Legal Affairs Committee as this bill came out last year. However, what I believe happens with this bill when you put those criminal sanctions in is that it trivializes the other crimes that are listed in that Class C. If you can draw a comparison between those two things, between attempting to tamper with a ballot box, if your town clerk opens it up twice and she shouldn't have or he shouldn't have, that clearly shouldn't happen. However that is not the same kind of a crime as workplace manslaughter or gross sexual assault. I believe that this tends to trivialize those other crimes by bringing these up to that level. So, I would ask you to support the pending motion.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: This is really a pretty straight-forward bill and I would just like to speak to the process that the committee went through in reaching our decisions last year with the electoral reforms which were based largely on the Commission that was established. We spent a lot of time on that and the bill in fact was not finished up and did not come out until virtually the end of the session.

Unfortunately I would certainly apologize to anyone for this but last year I was not aware that we had a resource in the Criminal Law Advisory Commission. Fortunately this year, knowing a little more than I did last year, we have had several bills that came in that did deal with criminal penalties and each of those bills have been referred to the Criminal Law Advisory Commission for their input. One of the problems that results when a variety of committees deal with criminal issues and levels of crimes which are Class A to E one of the problems is that a lot of us may not be aware of what the current criminal code is in the State of Maine. So, the purpose, what this commission did, was to review the changes in the level of penalty that were established last year and appropriately fold them in to the current criminal code. There were several violations that some of us would consider them a lesser nature.

The major penalties that came out in this bill were untouched, there was no suggestive change, but there were several changes that were made. I think several of them have already been discussed. The thought of carrying beepers within the guard rail and becoming a nuisance for some of us is not a par with aggravated manslaughter or something. So, lessening those penalties seemed totally appropriate.

One of the other suggestions that the Criminal Law Advisory Commission made was to add the intent. When we had worked the bill last year for many of the crimes such as taking a voters name off the registration list we had not included an intent to take someones name off. So, if someone today, a clerk inadvertently deleted a name from voter registration list they could be held criminally liable. When I saw the recommendations it seemed very reasonable to me that there should be an intent to cause harm to someone by some of these activities, the kind of technology we have today, computerization — someone might inadvertently push the wrong button and under the statute that we enacted last year could be held criminally liable. So, there were a hand-full of adjustments that were suggested and this bill simply addresses those and tries to make it consistent with the current criminal code. There are no major outrageous changes. It is all very reasonable and I hope that you will accept the Minority "Ought to Pass" Report.

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

Representative ROBICHAUD: Mr. Speaker, Colleagues in the House: Just to let you know the Criminal Law Advisory Commission did recommend — did not say we had to, did recommend that we might look at adding the word intent. However, if we choose to accept the Majority "Ought Not to Pass" that element of knowingly committing an offense of tampering or prohibiting or restricting a person from voting is not completely absent from the law because throughout the sections we did include in last years work the wording "knowingly" in fact, I am looking at one section here of current law that would be changed by the bill but if we choose to accept the Majority "Ought Not to Pass" Report this is what would be in place, "A person who knowingly engages in activities prohibited by this section" then falls under the category of committing a C, D, or E offense.

I would again implore you to think about the message that we sent last year from this legislature. We have the power to determine at what level we consider certain crimes. I would hope that you would oppose the pending motion so we can go on to uphold our efforts last year.

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. All those in favor will vote yes; those opposed will vote no.

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

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

ROLL CALL NO. 263

YEA - Adams, Ahearne, Aliberti, Beam, Bowers, Brennan, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Coffman, Coles, Constantine, Cote, Daggett, Dipietro, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Hale, Hatch, Heesch, Hichborn, Hoglund, Holt, Jacques, Jalbert, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Martin, J.; Melendy, Michaud, Mitchell, E.; Morrison, Nadeau, O'Gara, Oliver, Paradis, P.; Pendleton, Pfeiffer, Pineau, Pinette, Plourde, Poulin, Pouliot, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saxl, Simonds, Skoglund, Stevens, K.; Swazey, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Vigue, Walker, Wentworth, Winn, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Carleton, Clukey, Cross, Dexter, Donnelly, Farnum, Farren, Foss, Greenlaw, Heino, Hussey, Joy, Kneeland, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Michael, Murphy, Nash, Nickerson, Norton, Ott, Pendexter, Plowman, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Strout, Taylor, Thompson, True, Tufts, Whitcomb, Young.

ABSENT - Carr, Hillock, Kutasi, Marshall, Martin, H.; Mitchell, J.; Saint Onge, Sullivan, Zirnkilton.

Yes, 87; No, 55; Absent, 9; Paired, 0; Excused, 0.

87 having voted in the affirmative and 55 in the negative, with 9 being absent, the Minority "Ought to Pass" Report was accepted.

The Bill read once. Committee Amendment "A" (H-830) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, March 24, 1994.

By unanimous consent, all matters having been acted upon, with the exception of matters being held, were ordered sent forthwith.

HOUSE DIVIDED REPORT - Majority (7) "Ought Not to Pass" - Minority (6) "Ought to Pass" - Committee on Education on Bill "An Act Relating to Conferring of Degrees by the Research Institute for Semiological Mathematics" (H.P. 594) (L.D. 809)

TABLED - March 22, 1994 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Motion of same Representative to accept the Minority "Ought to Pass" Report.

Representative MARTIN of Eagle Lake requested a division on the motion to accept the Minority "Ought to Pass" Report.

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

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: This is a bill which is properly before this body, certainly, because any institution seeking to grant degrees, initial degrees - I would like to know, by the way, how a new institution could grant anything but, no matter what level it is at it would have to be granting that - is able to come before the Legislature to gain approval. Now, that is uncontained here in Title 20A

and the sections that pertain to that start with section 1707, actually it starts with 1704 and runs through 1708, if you want to check the reference. In stating that law, the legislature would have no way in the world to judge an institution if it just came in here. The Education Committee would be the one the law would go to and we are in no position to go do field visitations, we neither have the time nor the expertise.

Through APA standards, APA procedures, there have been rules which govern a process and that process directs those institutions to apply to the State Board of Education. The State Board of Education in turn frames a visitation team made up of experts, made up of those people who are in a position to make the judgments as to whether a degree should be advanced or not, approved or not by this body - not the degree but the institution.

A visitation team, in this case, was formed, it made a campus visit - made a visit to the cite of the proposed endeavor and came back with a report which denied approval. That is where it is as far as I am concerned. However, the institution in this case the institute under consideration, has a chance to react to that report, could ask that that report be reviewed, could indeed, I would say, ask for another review. I would not know how to deal orderly with approval to this kind in any other fashion.

Therefore I will certainly be voting against the "Ought to Pass" Report in this case.

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

Representative STEVENS: Mr. Speaker, Men and Women of the House: I hate to disagree with my committee mate, Representative Norton, we rarely disagree in committee but in this case we do.

Dr. Henry Pogorzelski is math professor at the University of Maine, if anyone is a friend of the University of Maine then I am and this bill is not antiestablishment or antiuniversity in any way. What Dr. Pogorzelski and the Research Institute for Semiological Mathematics are asking for is the right to grant one or two promised PhD's within the next decade or so as an institute in Orono. Dr. Pogorzelski's work at the University of Maine shall continue. He is interested only in continuing his research which he can not complete along. By having the PhD as promise to his assistants his researchers he may publish under the auspice of an AMA certified granting association or organization, if you will. This in turn would entice students from around the country, around the world, who are interested in semiological mathematics to come work for him and to help him complete his work. He can't do it alone, he needs those one or two dedicated students to come help him.

I will add that PhD indeed sounds intimidating but what these students will be leaving with is something they did not pay tuition for, something that the state did not pay for, something that the University did not pay for, something they will have is what Dr. Henry Pogorzelski has invested and created out of his own love and commitment to his math. They will leave with a PhD from the Research Institute for Semiological Mathematics, that is all it will say. It will speak for itself, it will say nothing about the University, the state or anything other than what they have worked on.

It is in times like these of waning public and financial support of education then I would hope that

we would take this opportunity to honor Dr. Pogorzelski's generous and kind offer to give of himself, his finances, his time, his commitment, his education as a PhD and tenured professor in our University system to enlighten the one or two few students who have the ability, the unusual ability to be able to study this sort of strange and indescribable rare math. It is vitally important. I think we owe it to Dr. Pogorzelski, our committee is divided on this and they have worked for hours and hours, it is true that there was not unanimous approval by the visiting committee but there wasn't unanimous disapproval by the Education Committee and that is something to consider because the visiting committee, even yet, votes are changing, new material is coming forth, guidelines are being met, questions are being answered by Dr. Pogorzelski and his associates.

Again, I would ask you to consider that what he is asking for to grant is merely a PhD in Semiological Mathematics from the Research Institute of Semiological Mathematics.

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

Representative WALKER: Mr. Speaker, Men and Women of the House: One of my constituents was a member of the visiting committee, his name is Dr. Zima and he contacted me and FAXed me this letter which I will excerpt part of, "I, Dr. R. Zima, being a member of the visiting committee for the request from the Research Institute for Mathematics hereby withdraw my signature from the report of said committee. I claim I have a right to withdraw my signature and also a responsibility to do so for the following reasons; it is my judgment now and was my actual judgment on the day of visitation, October 8, 1992 that the Research Institute should be granted the right to confer the PhD degree in mathematics for research producing collaboration with the staff of the institute and published in a reputable journal." He goes on to say that, as a committee member he was compelled to base his recommendation to the Education Committee on Rule 05-071, CMR170, and he said that "I claim that this instruction did not reflect the true content of the law here applicable as stated in MRS.A, Chapter 409 20A10704, therefore the process under this chapter is fundamentally flawed." So, yes, there was a visiting committee and yes, they did make a recommendation but as of now it is not all against it. Dr. Zima believes wholeheartedly that this institute should be allowed to confer a degree and I have the letter here if anybody else wishes to read it.

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

Representative CATHCART: Mr. Speaker, Men and Women of the House: I rise to ask your support for the Minority "Ought to Pass" Report on this piece of legislation. I sponsored this, I know it is a very esoteric bill, a very innovative and creative program and like many innovative and creative ideas it causes skepticism and some people are opposed to it. However, I do believe that Dr. Pogorzelski is well qualified to offer a PhD program. I had hoped by bringing this forward we would encourage the University of Maine or another institution of higher learning in this state to consider offering a PhD as there is no PhD in mathematics currently offered in the State of Maine.

I would urge your favorable consideration of this report. I think that this could work and it would be an assets to our state.

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

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to clarify a point that was brought up earlier. The RISM, Research Institute for Semiological Mathematics, did approach Leo Martin, Fredrick Douglas and the visiting committee to reevaluate their report five times in the last year and they were told that it is now in the Legislature's hands and there is nothing further they can do.

I would also like to point out that there is an article from the Maine Campus, Friday, March 4th of this year, I will quote this, "The general attitude of the University representatives in this matter," Dean Tarr said, "is that since the University of Maine already has no PhD programs in mathematics in the very same town as RISM that degree awarding function belonging to the independent group would simply be redundant." I would like to state here for the Record that there is no PhD in the mathematics program at the University of Maine, they have an interdisciplinary degree but it is in no way a PhD program in mathematics and right now that claim is being investigated and there is a complaint being filed because the University is receiving federal funds by saying that they have a PhD program in mathematics and they clearly do not.

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

Representative HICHBORN: Mr. Speaker, Men and Women of the House: It seems odd to me that a professor at the University of Maine, if as interested and as well qualified as he is purported to be, is doing a good job at the University of Maine that he as an individual should be seeking the right and privilege of granting degrees. If this program is as good as it is supposed to be, I wonder why we are not getting an endorsement from Chancellor Orenduff or President Hutchinson and lacking that endorsement which I would think would be forthcoming from them if they felt the program were worthy, I find it necessary to oppose this measure.

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

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: I did not intend to speak on this piece of legislation, however, this past Saturday I had occasion to visit the institute and visit the people involved and I must add that I was very impressed with the dedication of the people and the professor.

What I would like to pose through the Chair is a question — putting aside the procedural problems of the way this is developing, what is the negative aspect of our granting a degree through this process? In other words, could someone enlighten me as to what would be the bad impact if this bill passed?

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

The Chair recognizes the Representative from Cape Elizabeth, Representative Simonds.

Representative SIMONDS: Mr. Speaker, Women and Men of the House: First I would like to say that when this bill first came to the committee a year

ago, it is a hold-over bill, I think most of us were pleased to see that there was perhaps an opportunity to create a new creative, innovative PhD program in the State of Maine.

One of the first things that we looked at was of course the report of the visiting committee as has been describe, that is the process.

However, that is not necessarily the governing element. As those of us who really did want to find something new, something creative, looked more and more into this situation, we were struck by the fact that the proposal appears to be on very shaky ground.

When you approve an institution of this kind there are at least three things I think you look for.

First, you look for recognition by eminent authorities recognized in their field, published in national and international journals who have supported this and that being part of the record.

Second, you look for institutional support. What I saw was essentially this persons own money, own assets, supporting the program. I think an institute needs broader more in-depth support. Organizational integrity I think is important, you expect to see this institution alive and well and prospering over time. I did not see enough evidence in the proposal to suggest that there will indeed be a viable PhD program over time.

Some of those deficiencies perhaps can be corrected and there is a process for bringing this back through the usual procedures. But, right now it is too shaky and too wanting in broad-based support from eminent authorities, money support and an organization that will stand the test of time.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: I would just like to say a few words on this particular bill. First of all, I would like everybody in here to know that when you go through a PhD program, which is something I am attempting to do, you have to put together a committee, a dissertation committee of experts that will work with you through the entire program and they have to be people who are well qualified in their field, it can't be just one or two experts (and in this case I think there are one or two experts) you have to have a committee that is of unquestioned authority in that field, whether it is semiological mathematics or whether it is philosophy.

Frankly, I am very concerned about this process that we are going through right now. I am very surprised that the legislature can look at a bill like this and circumvent the visitation committee that went in examined this and said no, it is not proper.

I just want to make you aware of the fact that there is an individualized PhD program at the University of Maine but there has to be a team of professors who are willing to take on the student, whoever that might be, and they have to be well qualified in whatever the field is. In this case I just feel like it is on very shaky ground.

I would be very concerned if a bill like this passed. So, I would urge you to defeat this bill.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I speak on this bill because I think as Chair of the Education Committee

particularly after some of the comments I would like to explain why, even though I respect and understand the process so ably outlined by Representative Norton, that I can support this.

I'll start with the question posed by Representative Lipman who asked what is the downside and what is the harm? Finally I could not see any because a person who received a PhD from RISM, which is not a PhD from the University of Maine, which is not a PhD from any other institution that is widely known or respected but it is known only in very select circles and anybody who recognized that degree would know that it was a very limited research institute, very narrow and very specific. So frankly, I did not see the downside. And, comparing it with others is like comparing apples and oranges, in my book.

I want to share with you something else, there was a ripple of laughter going through here when Representative Stevens tried to talk about this kind of math. I think it is important that we talk about it for a minute because it is so complex, it is one of the reasons it doesn't fit in the standard mold of accrediting schools and allowing them to grant degrees. This is from the testimony of Mr. Bearsly, who by the way was opposed to granting the degree, but I want you to know what you are voting against before you vote. As defined by RISM semiological mathematics includes discrete mathematics, theoretical compute ability, recursive number theory, logic in the areas of mathematics subsumed under the mega concept of nextness as distinct from topological mathematic of nearness. This field is newly defined by RISM as highly theoretical.

Let me provide an example. I want you to think about this because this man believes he is on the cutting edge of going into a sphere heretofore uncrossed by mathematicians. You can scoff if you wish, but I always had the feeling I was sitting there looking at an Einstein and was too much of a clod to recognize it, so, that is why I was willing to take a chance when I didn't see the downside as being so great.

Let me provide one example, there is a 250 year old mathematical puzzle called gold box conjecture, that every even number may be expressed as a sum of two prime numbers. For example, the even number 10 can be explained by the prime numbers 3 + 7. Computers have never found an exception to this conjecture but no one has ever been able to develop the logical proof. Finding such a logical proof is what RISM is all about, very esoteric, very different, not a PhD like we think about otherwise.

This other piece I would just like to leave you with — some of you may have heard of Brooks Hamilton he is a professor emeritus at the University of Maine and I think he addresses what gives us such trouble in taking this seriously. However you vote on it I think you should at least take it seriously. But, he says the first thing you should know it is out of the mainstream so to many bureaucratically inclined people it is questionable. I would like to remind you that some of the greatest and most startling innovations in the discoveries of history have come from iconoclast and people who dared to be out of the mainstream. So, it is for that reason that I looked at the process a little bit differently, I did not see that the State of Maine had developed a very satisfactory process for evaluating something that

was so different as a free standing research institute.

Representative Walker has just read to you that one of the members of the visiting committee who is a mathematician who changed his vote because he — the reason he voted against it, according to his letter, it didn't fit the mold he thought he had to. But, when he decided that that was not the right thing to do he wanted to sand up and say that this school should be given a chance. That is why I even though I am certainly a believer in processes surrounding education, broke with what I normally do and took a chance on RISM. You obviously must think about it for yourself but I think when you finally vote you should ask the question that Representative Lipman asked, what is the downside?

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: My concern has nothing to do with the qualifications of who makes up this institute. I do not know whether qualified or unqualified to be listed as a State of Maine approved institution or institute.

I want to bring at least three members (two other than myself) back a few years when the Legislature used to be in the habit of passing out degrees granted institutions by legislative act. It was in Fort Kent, it was at JFK College which was granted the power to grant liberal arts degrees by legislative act. Then it became (would you believe) full of students who rarely went to classes but it happened to be during the Vietnam War where at the beginning, if you remember, deferments could be granted if you were going to college. Then, as the Vietnam War exclusions were no longer given, then the removal authority and the number of students dropped to almost zero. The only way the Department of Education could remove that authority was to recommend to the Legislature that that authority be withdrawn by legislative act.

If you were the legislator from Fort Kent and I was not — how difficult it was for them to support that legislation, how easy it was to get votes to prevent its passage with no students being there.

My fear then is that this institute created around an individual who could be well qualified today, the leadership changes next day, next week, next year, and frankly we forget about it and in three or four years from that point we have a problem on our hands. The only way that it can be dealt with is by legislative act. It seems to me that is not the way for the Legislature and for the State of Maine to be operating.

I again repeat, I know nothing about whether or not this institute is functioning properly, whether or not it ought to be approved but if one member of the visiting committee changed his mind, then it seems to me that an appeal is in order and new people will perhaps be appointed by the department who understand what this institute is and ought to be and then they could get the right to grant that degree. To me, that is the way it ought to operate. I, reluctantly, must vote against my two friends from Orono on this legislation.

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

Representative NORTON: Mr. Speaker, Men and Women of the House: Representative Lipman, I would like to provide and answer with your permission.

You asked a very legitimate question, what is the downside? You would cut the legs out from under the process by which this legislature must consider the granting of the degrees, not only at this institution, but all others.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: The individualized PhD program at the University has one advisor. The same program that has billed itself in the newspaper by the dean as a PhD in mathematics, one person and yet sitting on the board of directors of RISM, Research Institute for Semiological Mathematics is a Dr. Bresinsky from the University of Maine mathematics department. Dr. Hsu from the mathematics department of the University of Maine, Dr. Kurtz from Columbia Falls, Dr. Snyder from the University of Maine mathematic department, Dr. Ozluk from the University of Maine mathematics department and Dr. Pogorzelski from the University of Maine mathematics department.

There are other academics involved here too, Professor Hamilton, journalist from the University of Maine, Dr. Lutz, University of Maine economist, Dr. Lux, psychologist from Auburn, Dr. Prasch from the University of Maine, economist. I am trying to understand this — are we — these are all people who work for the University of Maine — well, to a large degree 90 percent of these people work for the University of Maine. They hold PhD's, more than half in mathematics. What kind of message are we sending to them when they try to be innovative? We bill ourselves here as the entrepreneurial state. We encourage entrepreneurship instead of getting bogged down in the processes, that is part of our society, we in America are known worldwide as those people who study things to death. I can remember four years ago when I attended the Governor's economic development conference and three words came out of there from the experts that were there "rapid response innovation" — if we are going to be competitive in this world, that is what we have to look at, those three words, "rapid response innovation."

I ask you to consider that this proposal before you by these distinguished gentlemen is just that, they are trying to be entrepreneurial in nature, they have the credentials, there is nothing wrong with this proposal, the only problem is that they are running into a bloated bureaucracy at the University of Maine. In my estimation a corrupt bureaucracy that stifles creativity, that stifles any challenge to their authority, something that we have to deal with.

When we have deans at the University of Maine saying in public that they have a PhD program in mathematics when they do not, something is wrong with this. They say this to kill this effort by these distinguished gentlemen. Something should be done to look into this, something is seriously wrong here.

I ask you to consider this, to seriously consider this proposal, the qualifications of these gentlemen that are involved in this is beyond reproach.

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

Representative ALIBERTI: Mr. Speaker, Colleagues of the House: I have to address this from a different point of view than I have heard from anyone on the floor right now. What are the preconditions for the granting of this degree? What does that

degree entitle me to do? Compare it to the PhD in philosophy, in education, and on and on and on.

Also, why can't they provide this service without the degree? Without the degree granting privilege that they seek?

To me this is against almost every concept in education that I have been exposed to for the last 40, 50 years. I knew what my process was, go to Farmington State Normal School for two years, get an extra year in elementary education, go to Boston University for a BS degree in education — that gave me a great education, it got me into the service. But that did a great service to me, it allowed me to go to Columbia University when getting a Masters Degree was something rare in 1946. But, I knew the process, I knew how to apply for each step along the way, the credibility that went along with it. There is something that doesn't make sense about this proposal. I am very uncomfortable with it.

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

A vote of the House was taken.

31 voted in favor of the same and 81 against, the Minority "Ought to Pass" Report was not accepted.

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

HOUSE DIVIDED REPORT - Majority (12) "Ought to Pass" as amended by Committee Amendment "A" (H-837) - Minority (1) "Ought Not to Pass" - Committee on Taxation on Bill "An Act to Provide Equity in the Laws Concerning Tax Exemptions for Veterans" (H.P. 1413) (L.D. 1923)

TABLED - March 22, 1994 (Till Later Today) by Representative NADEAU of Saco.

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

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: This bill is grossly misunderstood. Many people think that we are opening the door for a new group of exemptions. That is not so. I will briefly explain what the Veteran exemption means. Any veteran who served in war time, they call it, time of war, conflict, on reaching the age of 62 it allowed an exemption up to \$5,000 on their property taxes of valuation, not the tax bill. What this bill does, there were some people who fell through the cracks — under the wording "in war time conditions" (this has changed quite a bit) you may have a veteran who did not serve in those time periods as declared by Congress to times of conflict. He or she may have served in the armed forces and the result of injuries while serving in the armed forces became totally disabled but under the wording could not get the exemption. What this does is pick up these people who unfortunately fell through the cracks and could not get it. It is not opening up a whole new exemption status for veterans or anyone, it has to be a veteran who was disabled 100 percent as a result of military service and has reached age 62. According to the Bureau of Taxation

I think there is only about five percent of the number of veterans who are disabled who come under this category.

Now, you say it is not war time — fortunately we have had some of these people who served in peace time and it is because of their service that we today do not have any world war. I think possibly what you should do here is to vote for the Majority Report.

Mr. Speaker, I request the Clerk to read the Committee Report.

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

Representative LIBBY of Kennebunk requested a roll call on the motion to accept the Minority "Ought Not to Pass" Report.

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

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

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: I think it is fair to say that on this particular bill the majority of the members of the Taxation Committee did not feel that they had the time nor the energy to devote a lot of effort on this particular bill. I, being the pain in the neck purest, on tax exemption matters felt that any exemption certainly in a time of financial difficulty and instability, any exemption is not a proper move for us to be making.

Let me bring this back home just a little bit. If one of you folks is getting an exemption and your seatmate is not getting that exemption, somehow did not qualify, who do you think is paying the bill? That is a total injustice in the whole tax policy matter, the whole tax philosophy.

I have been reminded a couple of times by certain tax experts that the art of taxation is not necessarily a fair practice. The key is to make it equally unfair. There is probably a little bit of truth to that but this bill is certainly defying every costfull logic that that theory would hold.

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

Representative DORE: Mr. Speaker, Men and Women of the House: I certainly don't mean to add to the length of this debate, I would like to think that a 12 to 1 committee report doesn't necessarily engender that much emotion — apparently I am wrong.

I would just like to point out in addition to this being a 12 to 1 report that what we are trying to do is create more equity with this piece of legislation. Is it going to cost us a little money? Yes, it is going to cost us a little money, about \$5,000. What is it going to do? It is going to say that if you were involved in a military action, say your name is Oliver North and you were involved in an action that wasn't a war but you got hurt and your neighbor was involved in an action that was maybe the War in Viet Nam, maybe World War II, and they got hurt, it is the same property tax exemption, you are both limping, you know, it is the same injury, maybe it is a different country, maybe the circumstances are slightly different, it is the same injury, you

were serving your country, you were in the military service, you were away from your family, you were taking certain risks. I think it is only appropriate and equitable that you receive the same property tax exemption.

I think that we can afford the \$5,000 for our veterans.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: I took a look at this bill last week and I ran it by my tax assessing agent. We felt that present law allowed this right now. But, in looking it over and talking with Maine Municipal it came clear to us that there may be a few veterans out there that we may not be covered. I can tell you tonight, if that's true, that we are going to provide a little exemption for these extra few that haven't been covered every one of the lights up there ought to be green.

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

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: I would like to respond to Representative Nadeau's remarks concerning the hearing. We didn't ask very many questions but when Representative Libby was discussing this I had a lot of memories go through my mind. One of the things that I have learned over here is that we are hit with a great many decisions to make on great many subjects. I find that we share our experiences. I want to share one experience with you and tell you why I voted for this bill and why I am going to vote for this bill and why I agree with Representative Strout. I am pleased to say I have never been shot at but I am also proud to say I served in the Army's 11 and 82 Airborne divisions. I found myself on a drop zone on Fort Campbell one night, giving drop zone coverage to a mass jump. It was a bad night, you couldn't see your hand in front of your face. The only light was an airport beacon from Clarksville Air Force Base that would zip by once in a while. We couldn't see the planes coming in and we knew the men were jumping because we could see the flames from exhaust manifolds of the engines and a little light at the rear of the door as each man went out it flicked. We couldn't see them land, we could hear them land. By pure happenstance as the beam came around I saw something fall through it and I ran over in the direction where I thought this would be landing and I found what I thought I was going to find. I found a man whose parachute had not opened. He was alive, his name was Paul Rhoden, he died three hours later. Had he lived I am sure he would have been the kind of person that would have qualified for this totally disabled non-combat veteran. Let's turn all the lights green.

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

Representative JALBERT: Mr. Speaker, Men and Women of the House: I would like to qualify one thing and maybe — I keep hearing people vote for the green light, this is the Minority Report that they want pushed through, I would ask for your red light in stead of the green.

In response to my very good friend from Saco, he seems to put a veteran in the same category as someone else out there who is asking for an exemption. I have no choice, the hot breath of the

draft board grabbed me by the neck and if you could see the dirt under my fingernails it is when they grabbed me from one of the hen houses last time. I didn't want to go, but I went. As such, I was three years behind everything I did. I came back from college, I had trouble getting into college because the colleges were full. I went to work three years later at the DOT, other people who didn't go had good jobs. If I had got here three years earlier who knows, I might be the Speaker today. But, that is the thing. The government has said we will pay you back, now, the purpose of giving this is we are not talking war time any more. I have said before that it is the peace we are keeping now. As many people out there who have been injured, who are completely disable, get along in years after, who are now asking for this and as I said, it is as the gentle lady from Auburn said, a very small group. If we can't do this for those veterans who served when they were asked to serve then we should think about.

I would ask, since this is a motion for the Minority Report, let's see the red lights then we will get the green ones after.

The SPEAKER: A Roll Call has been ordered. The pending question before the House is acceptance of the Minority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 264

YEA - Gray, Nadeau.

NAY - Adams, Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Beam, Bennett, Birney, Bowers, Brennan, Bruno, Cameron, Campbell, Carleton, Caron, Carroll, Cathcart, Chonko, Clark, Clement, Cloutier, Clukey, Coffman, Coles, Constantine, Cote, Cross, Daggett, Dexter, Dipietro, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farnum, Farren, Fitzpatrick, Foss, Gamache, Gean, Gould, R. A.; Greenlaw, Hale, Hatch, Heeschen, Heino, Hochborn, Hogle, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Joy, Kerr, Kilkelly, Kneeland, Kontos, Larrivee, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Martin, J.; Melendy, Michael, Michaud, Mitchell, E.; Murphy, Nash, Nickerson, Norton, O'Gara, Oliver, Ott, Paradis, P.; Pendexter, Pendleton, Pfeiffer, Pineau, Pinette, Plourde, Plowman, Poulin, Pouliot, Rand, Reed, G.; Reed, W.; Richardson, Ricker, Robichaud, Rotondi, Rowe, Ruhlin, Rydell, Saxl, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Swazey, Tardy, Taylor, Thompson, Townsend, E.; Townsend, L.; Tracy, Treat, True, Tufts, Vigue, Walker, Wentworth, Whitcomb, Winn, Young.

ABSENT - Carr, Cashman, Chase, Hillock, Ketterer, Kutasi, Martin, H.; Mitchell, J.; Morrison, Saint Onge, Sullivan, Townsend, G.; Zirkilton, The Speaker.

Yes, 2; No, 135; Absent, 14; Paired, 0; Excused, 0. 2 having voted in the affirmative and 135 in the negative, with 14 being absent, the Minority "Ought Not to Pass" was not accepted.

Subsequently, the Majority "Ought to Pass" Report was accepted. The Bill read once. Committee Amendment "A" (H-837) was read by the Clerk and adopted. The Bill assigned for second reading Thursday, March 24, 1994.

HOUSE DIVIDED REPORT - Majority (12) "Ought Not to Pass" - Minority (1) "Ought to Pass" as amended by Committee Amendment "A" (H-842) - Committee on Energy and Natural 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)
 TABLED - March 22, 1994 (Till Later Today) by Representative MITCHELL of Freeport.
 PENDING - Motion of same Representative to accept the Majority "Ought Not to Pass" Report.

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

Representative LORD: Mr. Speaker, My Learned Colleagues: First of all I wish that the people here in the hall would look at the hand-out that I had passed out yesterday, you probably can find it somewhere. It says up to the top of it Maine Waste Management Agency, What Happens to the Collected Fees? It is quite interesting and I wish you would go through that and look at the three page hand-out that I put out.

I kind of feel like that watch in the Timex ad that was on television over the years and it just showed a beat-up watch, tramped on and everything, it says "it takes a licking but it keeps on ticking" now I kind of feel that is what happened to me.

This, I figured, was a good bill and maybe I did a lousy job of presenting it or maybe Sherry Huber, when she told the group that there would probably be some lay-off's in some of her agency and then Deborah Richards from the DEP came over and said that if this passed there would be some lay-offs in the Waste Management Agency, over in DEP. I could take that pretty well but when Ken Young from MMA came up and said that the towns didn't want this, I really got discouraged.

However, I did have a call from a lady in Auburn, her name is Dianne Freeve, and she has something to do with the recycling program over there in Auburn and she said she would like to know something about my bill. I explained it to her and said "What do you think of it?" She said, "I think this is something that the towns could use, we need it, our expenses are running high and this seems so some of this money should be coming back to the town." So, I followed through with it and this is the first time in the ten years that I have been up here that I have signed off on a bill as one.

However, I want you to go back with me a little bit when we started this whole process back in 1989 when we started the recycling program and the agency. We were looking for money, we were told back then there was no General Fund money available so we would have to come up with some fee money or do something to come up with the money to support it. So, we were talking about tires and I thought we were talking about other things. Some of us felt that maybe yes, we could go ahead and charge a little extra for tires and other things, white goods and stuff, and that maybe some of this should be going back to the towns to defray the cost of us getting rid of the stuff because when you go into recycling somebody has got to handle this and back in those days you were paying for tires and you were paying for white goods and it was running up money. So, when we came to the floor here — if my memory serves me correct — I said that part of this money was coming back to the towns. Well, somewhere along the line between the time we voted on it up here and the

time it got down to Taxation or Appropriations they forgot about the towns and Sherry got it all. That is what has happened.

What happened, you people go over and buy a new washing machine or a dishwasher or refrigerator and you are paying \$15.00 when you buy it. You come home and put your new washing machine, dishwasher in and you bring your old one down to the dump or down to the recycling center so you have to pay another \$10.00 or another \$15.00 to get rid of it. To me this is double taxation, absolute, positively, double taxation, you can't call it anything else. A fee is a fee but a fee is a tax because back in the old days when you took that refrigerator and took it down to the dump — back in those days the dumps were costing about \$15,000 to keep them going — you paid a little bit on your taxes now you are paying it when you buy it and you pay it when you get rid of it, double taxation, don't let anybody kid you.

This is the reason why I put this in. I feel that it is something that is very useful, it could be.

If you look at the income on this page you will find that between the unclaimed bottle deposits, which is \$750,000 (this is for 1994) and the recycling assistance fees of \$2,600,000 your constituents are coughing up \$3,350,000 to run the agency. If you look at where the money is going you will find that there is — and I would refer you more to the second page where you have the administration, assistant director with three people, the average pay is \$38,000 to \$58,000 plus, the Office of Planning of four people, the average salary over there is \$55,895. The Office of Siting and Disposal Operations the average salary is \$60,672. And, you go to the Waste Management Recycling which is one of the main reasons we went into it five people average salary of \$48,072.

But, the thing I think that bothers me most of all, most of all, is the Waste Management Agency over in the DEP. Now, when we went ahead and formed this agency I don't think any of us ever dreamed that we were going to have two Waste Management Agencies. One with Sherry Huber and one over in DEP operated by Paula Clark. So, what we are doing over there we are for 21 people, 21 people, at a cost for 1994 \$1,168,000. And if you look down at the bottom of that back page you will find that the Waste Management Agency also gets a little dough from the budget and the budget for 1994 is \$416,648, they also got some federal funds of \$146,000 and this is to fund nine positions. So, there is 30 positions over there and 16 up to Sherry Hubers so you got 46 people running the two agencies.

What are we going to do? What are we going to do? I say it is about time we took a little of those bucks and put them back to the towns, put it back to the communities because they could use the money. It is costing most of your communities now, they are running up big expenses. A lot of the small towns down my way the Waste Management Agency getting rid of the solid waste is the third largest appropriations in town meetings. I was up to Limerick a couple of weeks ago and the small town of Limerick this coming year is spending \$150,000 for the solid waste management. That is a lot of dollars for a small town. They could use some of this money.

It is going to mean a little work, it is going to mean some work because you have to have some justification for this and my bill, my amendment, which is H-42 will tell you just how it is going to

be done. We are doing it with tires now in my town. As a matter of fact last year 400 tires went through the coupon deal that the fellow with the tires came in and they pay a dollar and they got a couple of coupons, one for each tire, a buck apiece to bring it down to the recycling center and they give it to the man down there (we have a man down there all the time) and they give him the coupon and the tire goes on to the retainer. So, it can work and it can work with the other stuff too.

I was kind of wondering just how much white goods we were shipping so I called the selectmen's assistant and in the town of Waterboro last year we shipped 171.53 tons of white goods, that is a lot of refrigerators and electric stoves. Granted there is other stuff in there but there is a lot of electric stoves and refrigerators and washing machines, hot water heaters and other stuff and it is costing us money. This could work.

The lady over in Auburn said it would work and if we want it to work, it can work.

I am going to ask you if you like double taxation don't vote with me but if you want single taxation vote with me one this.

You know folks, it is kind of ironic, this L.D. is 1776, what happened in 1776? Remember? The Spirit of '76. We had 13 little colonies that went to war with the great giant of England and we beat them. One of the reasons we went to war — taxation without representation, by golly, let's get a little bit of '76 spirit now and vote for your constituents and vote with me.

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

Representative MARTIN: Mr. Speaker, Members of the House: What you just heard in about ten minutes is what the committee heard for a whole day. I want to tell you that we listened because many of the points (I would say most of the points) are on target. The problem that we found ourselves in was that everyone came in, including the municipalities opposed to the legislation sponsored by the Representative from Waterboro and as a result we felt that we were not in a position to start messing around with the reimbursement that municipalities are getting because if the cuts occur, one manner, shape or form, we are going to create some problems for what the municipalities are now doing. We thought that we had Representative Lord going with us to kill his own bill until the very last moment and he said to us, "I am going out, I am giving my speech one way or the other." Now, there is some movement on the committee by some members to deal with the question of the double taxation issue and the question as to which department ought to be doing what. That is important and that is some thing that we need and intend to pursue but we do not believe this is the vehicle to do it.

To my good friend I wish I could vote with him and all 12 of us who didn't vote with him, wish we could have but it was not to be. We wish he would have joined us on this one.

I would ask you to vote to accept the Majority Report.

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

A vote of the House was taken.

60 voted in favor of the same and 50 against, subsequently, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

BILL HELD

Bill "An Act to Amend the Tree Growth Tax and Open Space Voluntary Withdrawal Laws" (H.P. 1349) (L.D. 1815) (C. "A" H-832)
 - In House, Passed to be Engrossed as amended by Committee Amendment "A" (H-832).
 HELD at the Request of Representative MARTIN of Eagle Lake.

On motion of Representative MARTIN of Eagle Lake, the House reconsidered its action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-832).

On further motion of the same Representative, tabled pending passage to be engrossed and specially assigned for Thursday, March 24, 1994.

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

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative COTE from the Committee on Judiciary on Bill "An Act Concerning Child Sexual Abuse Laws" (H.P. 919) (L.D. 1243) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-898)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-898) was read by the Clerk and adopted and the bill assigned for second reading Thursday, March 24, 1994.

Ought to Pass as Amended

Representative COTE from the Committee on Judiciary on Bill "An Act Relating to Access for People with Disabilities" (H.P. 1321) (L.D. 1783) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-894)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-894) was read by the Clerk and adopted and the bill assigned for second reading Thursday, March 24, 1994.

Divided Report

Eight Members of the Committee on Committee on Labor on Bill "An Act to Reestablish Stipends for Professional Staff at State Mental Health Institutions" (H.P. 1358) (L.D. 1833) report in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-892)

Signed:
 Senators: HANDY of Androscoggin
 LUTHER of Oxford
 Representatives: RUHLIN of Brewer
 ST. ONGE of Greene
 CHASE of China
 CLEMENT of Clinton
 SULLIVAN of Bangor
 LINDAHL of Northport

Three Members of the same Committee on same Bill report in Report "B" that the same **"Ought to Pass"** as amended by Committee Amendment "B" (H-893)

Signed:
 Representatives: COFFMAN of Old Town
 CARR of Sanford
 LIBBY of Buxton

Two Members of the same Committee on same Bill report in Report "C" that the same **"Ought Not to Pass"**

Signed:
 Senator: BEGLEY of Lincoln
 Representative: AIKMAN of Poland

Reports were read.

Representative RUHLIN of Brewer moved that the House accept Report "A" **"Ought to Pass"**.
 On further motion of the same Representative, tabled pending his motion to accept Report "A" **"Ought to Pass"** and specially assigned for Thursday, March 24, 1994.

Divided Report

Majority Report of the Committee on **Aging, Retirement & Veterans** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-891) on Bill "An Act Relating to Retirement Benefits for the State Police" (H.P. 1363) (L.D. 1842)

Signed:
 Senator: WEBSTER of Franklin
 Representatives: JALBERT of Lisbon
 CATHCART of Orono
 VIGUE of Winslow
 CLUKEY of Houlton
 JOY of Island Falls
 BIRNEY of Paris
 TUFTS of Stockton Springs

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

Signed:
 Senators: TITCOMB of Cumberland
 McCORMICK of Kennebec

Representatives: WENTWORTH of Kennebunkport
 HATCH of Skowhegan
 BARTH of Bethel

Reports were read.

Representative JALBERT of Lisbon moved that the House accept the Majority **"Ought to Pass"** Report.
 On further motion of the same Representative, tabled pending his motion to accept the Majority **"Ought to Pass"** Report and specially assigned for Thursday, March 24, 1994.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **Utilities** reporting **"Ought Not to Pass"** on Bill "An Act to Amend the Charter of the Passamaquoddy Water District" (H.P. 503) (L.D. 661)

Signed:
 Senator: VOSE of Washington
 Representatives: CLARK of Millinocket
 ADAMS of Portland
 CASHMAN of Old Town
 DONNELLY of Presque Isle
 MORRISON of Bangor
 AIKMAN of Poland
 TAYLOR of Cumberland
 HOLT of Bath
 KONTOS of Windham

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-899) on same Bill.

Signed:
 Senator: CLEVELAND of Androscoggin
 Representative: COFFMAN of Old Town
 Reports were read.

Representative CLARK of Millinocket 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"** and specially assigned for Thursday, March 24, 1994.

CONSENT CALENDAR

First Day

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

(H.P. 1110) (L.D. 1506) Bill "An Act to Amend the Laws Governing Municipal Elections" Committee on

Legal Affairs reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-901)

(H.P. 1214) (L.D. 1633) Bill "An Act to Amend the Provisions Relating to Mental Examination and Observation of Persons Accused of a Crime" Committee on **Judiciary** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-897)

(H.P. 1322) (L.D. 1784) Bill "An Act to Amend the Laws Regarding Protective Custody" Committee on **Judiciary** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-896)

(H.P. 1342) (L.D. 1809) Bill "An Act to Promote the Continued Use of Private Lands for Recreation" Committee on **Judiciary** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-895)

(H.P. 1377) (L.D. 1864) Bill "An Act to Enable Parents to Retain Custody in Voluntary Placements" Committee on **Human Resources** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-902)

(H.P. 1438) (L.D. 1964) Bill "An Act to Continue Election Reform Efforts" (Governor's Bill) Committee on **Legal Affairs** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-900)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, March 24, 1994, under the listing of Second Day.

SENATE PAPERS

Ought to Pass as Amended

Report of the Committee on **Energy and Natural Resources** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-481) on Bill "An Act Concerning Municipally Owned and Operated Solid Waste Incinerators" (S.P. 690) (L.D. 1876)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-481).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-481) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, March 24, 1994.

Divided Report

Majority Report of the Committee on **Banking and Insurance** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-442) on Bill "An Act to Promote Economic and Employment Growth in the Financial Services Sector" (S.P. 620) (L.D. 1722)

Signed:

Senators: McCORMICK of Kennebec
CAREY of Kennebec
KIEFFER of Aroostook

Representatives: PINEAU of Jay
ERWIN of Rumford
CARLETON of Wells
KUTASI of Bridgton
TOWNSEND of Canaan
CAMPBELL of Holden

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

Signed:

Representatives: HALE of Sanford
TRACY of Rome
RAND of Portland
JOSEPH of Waterville

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-442).

Reports were read.

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

On further motion of the same Representative, tabled pending her motion to accept the Minority **"Ought Not to Pass"** Report and specially assigned for Thursday, March 24, 1994.

CONSENT CALENDAR

First Day

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

(S.P. 705) (L.D. 1902) Bill "An Act Regarding Registration for the Provision of Substance Abuse Counseling Services" Committee on **Business Legislation** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-479)

There being no objections, the above item was ordered to appear on the Consent Calendar of Thursday, March 24, 1994 under the listing of Second Day.

On motion of Representative KONTOS of Windham, adjourned at 7:10 p.m., until 9:00 a.m., Thursday, March 24, 1994.