

# 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  
35th Legislative Day  
Wednesday, April 6, 1994

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

Prayer by Reverend Larry Sullivan, Easton Wesleyan Church.

The Journal of yesterday was read and approved.

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**SENATE PAPERS**

The following Communication:

Maine State Senate  
Augusta, Maine 04333

April 5, 1994

The Honorable Dan A. Gwadosky  
Speaker of the House  
116th Legislature  
Augusta, Maine 04333

Dear Speaker Gwadosky:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Housing and Economic Development, Jane Roundy of Manchester for appointment to the Maine State Housing Authority. Jane Roundy is replacing Betsy Greenstein.

Sincerely,

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

Was read and ordered placed on file.

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The following Communication:

Maine State Senate  
Augusta, Maine 04333

April 5, 1994

The Honorable Dan A. Gwadosky  
Speaker of the House  
116th Legislature  
Augusta, Maine 04333

Dear Speaker Gwadosky:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed the following:

Upon the recommendation of the Joint Standing Committee on Marine Resources:

Burton H. Blanch of Eastport for reappointment to the Marine Resources Advisory Council.

Brad Burns of Falmouth for reappointment to the Marine Resources Advisory Council.

Arthur Odlin of South Portland for reappointment to the Marine Resources Advisory Council.

Robert J. Peacock of East Machias for appointment to the Marine Resources Advisory Council.

Robert J. Peacock is replacing Jeff Kaelin.

Sincerely,

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

Was read and ordered placed on file.

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The following Communication:

Maine State Senate  
Augusta, Maine 04333

April 5, 1994

The Honorable Dan A. Gwadosky  
Speaker of the House  
116th Legislature  
Augusta, Maine 04333

Dear Speaker Gwadosky:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Banking and Insurance, H. Donald DeMatteis of Litchfield for reappointment as Superintendent of the Maine Bureau of Banking.

Sincerely,

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

Was read and ordered placed on file.

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Resolve, Authorizing the Examination of School Finance and Taxation Proposals (S.P. 776) (L.D. 2003) (Governor's Bill)

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

Under suspension of the rules, and without reference to a Committee the Resolve was read once. The Resolve was assigned for second reading later in today's session.

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**Non-Concurrent Matter**

Bill "An Act to Rejuvenate the Lobster Population in the Gulf of Maine" (H.P. 1262) (L.D. 1689) which was passed to be engrossed as amended by Committee

Amendment "A" (H-973) as amended by House Amendment "A" (H-1017) thereto in the House on April 1, 1994.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-973) as amended by House Amendment "A" (H-1017) and Senate Amendment "A" (S-576) thereto in non-concurrence.

Representative MITCHELL of Freeport moved that the House Adhere.

On motion of Representative HEINO of Boothbay, tabled pending the motion of Representative MITCHELL of Freeport to Adhere and later today assigned.

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**Non-Concurrent Matter**

Bill "An Act Regarding Cable Television" (H.P. 1096) (L.D. 1483) which was passed to be engrossed as amended by Committee Amendment "A" (H-836) as amended by House Amendment "B" (H-982) thereto in the House on March 31, 1994.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-836) as amended by Senate Amendment "A" (S-577) thereto in non-concurrence.

On motion of Representative CLARK of Millinocket, the House voted to Adhere.

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**ORDERS**

On motion of Representative TUFTS of Stockton Springs, the following Joint Resolution: (H.P. 1478) (Cosponsored by Senator: GOULD of Waldo)

**JOINT RESOLUTION RECOGNIZING  
THE 200TH ANNIVERSARY OF  
THE TOWN OF PROSPECT**

WHEREAS, the Town of Prospect, which was first settled in 1759, is a charming and historic town in Waldo County on the Penobscot River; and

WHEREAS, the Town of Prospect, which was originally part of Frankfort Plantation, in 1794 became the 86th town in the State to be incorporated and the town plans to celebrate its 200th anniversary with exciting monthly events; and

WHEREAS, the Town of Prospect, named for its beautiful views, is home to historic Fort Knox, built in 1846 of Mt. Waldo granite and vital to the training of Union troops during the Civil War; and

WHEREAS, the Town of Prospect exemplifies the character that makes Waldo County and the State special and has long reflected the rich heritage of this State; and

WHEREAS, our State is known far and wide for the special quality and human scale of the small communities on the edges of our woodlands, lakes, rivers and seas; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred

and Sixteenth Legislature now assembled in the Second Regular Session, take this occasion to recognize the bicentennial anniversary of the Town of Prospect, to commend the inhabitants and officials of the town for the success they have achieved together for 2 centuries and to extend our sincere hopes and best wishes for continued achievement over the next 200 years; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the citizens and officials of this proud community in honor of the occasion.

Was read and adopted and sent up for concurrence.

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**SPECIAL SENTIMENT CALENDAR**

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

Recognizing:

the members of the Vinalhaven High School Math Team for outstanding achievement in competition in 1993-94. They placed first among the Class C schools and second among all classes; (HLS 945) by Representative SKOGLUND of St. George. (Cosponsor: Senator PINGREE of Knox)

On objection of Representative SKOGLUND of St. George was removed from the Special Sentiment Calendar.

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

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L. T. "Pete" Pedersen, of Vinalhaven, who was given a Presidential Award for Excellence in Mathematics Teaching for the State of Maine. We join the people of Vinalhaven in expressing appreciation for Mr. Pedersen's dedication to his profession and to his students; (HLS 959) by Representative SKOGLUND of St. George. (Cosponsor: Senator PINGREE of Knox)

On objection of Representative SKOGLUND of St. George was removed from the Special Sentiment Calendar.

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

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Carl W. Litsch, of Boy Scout Troop #271 in Presque Isle, who has attained the high rank and distinction of Eagle Scout; (HLS 970) by Representative MARTIN of Eagle Lake. (Cosponsors: Representative DONNELLY of Presque Isle, Representative MacBRIDE of Presque Isle, Senator KIEFFER of Aroostook)

On objection of Representative DONNELLY of Presque Isle, was removed from the Special Sentiment Calendar.

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

**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on State & Local Government reporting "Ought to Pass" on Bill "An Act to Impose Term Limits on Members of the United States Congress" (I.B. 2) (L.D. 1983)

Signed:

Senator: BERUBE of Androscoggin  
Representatives: KILKELLY of Wiscasset  
AHEARNE of Madawaska  
WALKER of Blue Hill  
BENNETT of Norway  
YOUNG of Limestone  
JOSEPH of Waterville

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

Signed:

Senators: ESTY of Cumberland  
BUTLAND of Cumberland  
Representatives: DUTREMBLE of Biddeford  
ROWE of Portland  
LOOK of Jonesboro  
GRAY of Sedgwick

Reports were read.

On motion of Representative PARADIS of Augusta, tabled pending acceptance of either Report and later today assigned.

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**ENACTORS**

**Bond Issue**

An Act to Authorize Department of Transportation Bond Issues in the Amount of \$21,300,000 to Improve Rail and Port Facilities and Make Improvements at State and Municipal Transportation Facilities (S.P. 697) (L.D. 1895) (Governor's Bill) (S. "A" S-540)

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

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

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**Bond Issue**

An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 for Academic Improvements at the University of Maine System, Including the Enhancement of Instructional Technology and Distance Learning (S.P. 718) (L.D. 1940) (Governor's Bill) (H. "A" H-1012 to C. "A" S-539)

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

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

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**Constitutional Amendment**

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Contractual Obligation for Members of the Maine State Retirement System (S.P. 653) (L.D. 1822) (C. "A" S-515)

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

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

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**Emergency Measure**

An Act to Implement the Recommendations of the Health and Social Services Transition Team (H.P. 1330) (L.D. 1793) (C. "A" H-1008)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of the same and 5 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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**Emergency Measure**

An Act to Promote the Quality of Maine Dairy Products (H.P. 1384) (L.D. 1883) (H. "A" H-1030 to C. "A" H-950)

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. 102 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.

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**Emergency Measure**

An Act to Consolidate and Streamline the Functions of Maine Government in Conformity with the Provisions of the Texas Low-Level Radioactive Waste Disposal Compact (S.P. 730) (L.D. 1951) (Governor's Bill) (C. "A" S-567)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of the same and 6 against and accordingly the Bill was passed to be

enacted, signed by the Speaker and sent to the Senate.

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**Emergency Measure**

An Act Authorizing the Kennebec County Commissioners to Issue Bonds in the Amount of \$1,500,000 for Renovation of the County Court House in Augusta (H.P. 1449) (L.D. 1978) (C. "A" H-1024)

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. 105 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.

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**Emergency Mandate**

An Act to Revise the Authorization of the Towns of Appleton, Camden, Hope, Lincolnville and Rockport to Form a Community School District (H.P. 1474) (L.D. 2002)

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

On motion of Representative MITCHELL of Vassalboro, under suspension of the rules, the House reconsidered its action whereby L.D. 2002 was passed to be engrossed.

The same Representative presented House Amendment "A" (H-1045) which was read by the Clerk.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: This amendment is a monument and a testimony to the difficulty of towns trying to form CSD's and Unions, it is not as easy sometimes as people would have you think. However, this is yet another technical amendment, the town name of Appleton was left of part of the bill, it corrects that and it also permits the Town of Appleton to have one other chance to vote on the Union. If they should fail to approve it the other towns can proceed without them. It is indeed a technical amendment and we appreciate your patience with us in trying to get this to the satisfaction of the towns involved.

Subsequently, House Amendment "A" (H-1045) was adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-1045) in non-concurrence and sent up for concurrence.

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An Act to Amend the Adoption Laws (S.P. 309) (L.D. 942) (H. "A" H-1014 to C. "A" S-495)

An Act to Assist in Crime Prevention (H.P. 1041) (L.D. 1393) (C. "A" H-855)

An Act to Make Maine Law Consistent with the Federal Law Regarding the Omnibus Budget Reconciliation Act of 1993 and to Clarify Maine Laws

Regarding Underwriting and Continuity (H.P. 1451) (L.D. 1980) (Governor's Bill) (C. "A" H-1020)

An Act to Establish a Self-employment Assistance Program (S.P. 752) (L.D. 1981) (Governor's Bill) (C. "A" S-571)

An Act to Encourage Electric Rate Stabilization (S.P. 774) (L.D. 1997) (Governor's Bill) (H. "A" H-1029)

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

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An Act to Clarify Maine Election Laws (H.P. 1201) (L.D. 1609) (S. "A" S-557 to C. "A" H-947)

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

On motion of Representative JACQUES of Waterville was set aside.

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

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An Act to Promote Flexibility in Health Care Delivery Systems (S.P. 592) (L.D. 1651) (C. "A" S-568)

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

On motion of Representative PINEAU of Augusta was set aside.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 1651 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-568) was adopted.

The same Representative presented House Amendment "B" (H-1051) to Committee Amendment "A" (S-568) which was read by the Clerk.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: This bill, 1651, came out of the Banking and Insurance Committee a Divided Report, twelve to one. I was that one. I feel obliged to tell why. This bill would restructure deregulation of insurance to allow Blue Cross/Blue Shield to have an HMO in Maine. Blue Cross/Blue Shield does have an HMO in Maine now rather as an adult child. Blue Cross/Blue Shield wants to have an HMO in Maine as something like a Siamese twin.

The 40 page amendment referred to was presented by the Bureau of Banking to allow this to happen replacing the original one page bill.

This is a very complicated issue. I asked for some information during the discussion of the bill and I was not able to get the information from the bureau before I had to vote on the issue so I chose to vote against it. After I had had an opportunity

to read the information that I had requested I still didn't understand it so I have continued to vote against this bill.

Subsequently, House Amendment "B" (H-1051) to Committee Amendment "A" (S-568) was adopted.

Committee Amendment "A" (S-568) as amended by House Amendment "B" (H-1051) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-568) as amended by House Amendment "B" (H-1051) thereto in non-concurrence and sent up for concurrence.

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By unanimous consent, all matters having been acted upon were ordered sent forthwith.

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**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.

Expression of Legislative Sentiment recognizing Joseph Nicholas (HLS 913)  
 TABLED - March 31, 1994 by Representative JACQUES of Waterville.  
 PENDING - Passage.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.  
 Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I am truly honored today to read to you a testament for Joseph Nicholas. Many of you know him.

Joseph A. Nicholas, an elder from the Passamaquoddy Tribe of Pleasant Point, Perry, Maine was born on the Reservation in Washington County. He went to elementary school on the Reservation and was taught by the Sisters of Mercy. He went on to high school in Eastport and graduated from Shead High. Joe or "Cozy" as he is affectionately called, then enlisted in the Navy. After his tour of duty, Joe returned to his native land to become a barber and married a Passamaquoddy woman, Alice Mitchell. Together they raised a daughter, Mary Alberta and a son, Stephen. Joe has five grandchildren and recently became a great grandfather.

Joe was in the barber business for fifteen years before he became involved as a coordinator in the Portland Homemaker Program. When this program ended Joe entered the field of Bilingual Education, one near and dear to his heart still to this day. He has been instrumental in initiating and facilitating Project PRIDE. This program shared with many schools in Maine, the correct concepts of Native Americans contributions in Maine and helped to dispel the myths that surround textbooks in some schools. He proudly taught the children the Passamaquoddy dances and the history around them as he traveled to different districts with the children in their Native dress. Joe role modeled his sense of pride through his teachings.

Another accomplishment of Joe's was his vision of having a Passamaquoddy Museum, a place where the people from Sipayik and neighboring towns could come

to see the proud history of their ancestors. This became a reality and to this day, the co-founders, Joe and Dave Frances are there explaining the history and taking people on tours.

From 1951 to 1989, Joe represented the Passamaquoddy people in the State Legislature. Thirty-five years ago, Joe, along with Mary Moore began Indian Day Gatherings in August. They taught and organized this day of dancing to keep their culture alive. It is still carried on to this day.

Joe's leadership qualities have brought him into Tribal Government, School Board and Parish Council activities. A deeply spiritual man, he blends his Native spirituality with his Catholic religion in a very balanced way. Joe Nicholas has made great contributions to his people and has lovingly shared his gifts of foresight, motivation and humor — he is indeed a man of honor.

The public has recognized Joe's contribution in the field of education by giving him two honorary degrees — one which he received from St. Joseph's College and the other from the University of Maine in Machias.

Ladies and gentlemen, in closing what I have read to you today is just a brief history of his life and some of his accomplishments. As a friend of Joe's I am here to tell you that that doesn't even touch on his contribution to the Indians and Whites alike.

He is the type of man that has walked with pride as to who he is and where he has come from and he is a lesson for all of us. He is a person that made you wish I was a member of the Passamaquoddy Tribe. I am honored to count him as a friend. My life, as I know a lot of yours, has been greatly enriched by knowing Joe.

Subsequently, read and passed and sent up for concurrence.

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HOUSE REPORT - "Ought to Pass" as amended by Committee Amendment "A" (H-969) - Committee on Legal Affairs on Bill "An Act to Amend the Laws Governing the Training and Certification of Law Enforcement Officers" (H.P. 828) (L.D. 1114)  
 TABLED - March 31, 1994 by Representative ZIRNKILTON of Mount Desert.  
 PENDING - Acceptance of the Committee Report.

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

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Resolve, Establishing the People with Disabilities Access Commission (H.P. 1321) (L.D. 1783) (C. "A" H-894)  
 TABLED - March 31, 1994 by Representative JACQUES of Waterville.  
 PENDING - Final Passage.

On motion of Representative PARADIS of Augusta, tabled pending final passage and later today assigned.

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Bill "An Act to Create a Franchise Practices Act" (H.P. 1407) (L.D. 1916)  
 TABLED - March 31, 1994 by Representative COLES of

Harpswell.

PENDING - Adoption of House Amendment "A" (H-1005) to Committee Amendment "A" (H-912).

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

Representative LIBBY: Mr. Speaker, Members of the House: Here we are again, attempting to micromanage business. The amendment presented is not very watered down as it still contains a great many of the problems that the original bill had. If you put water in a bad cup of coffee, you still have a bad cup of coffee.

Twenty-six other states have eliminated similar hard-line legislation like our L.D. 1916 and only one, Iowa, has passed it. The Iowa Department of Economic Development confirms that more than 70 companies that offer franchise opportunities have indicated they will no longer franchise in Iowa. It its six year projections Iowa estimates that this bill will cost the state 500 businesses 6,000 jobs and more than \$6 million in revenue each year.

The main legislation here that is opposing the business organization is the Maine Merchants Association, the Maine Restaurant Association, the Maine Innkeepers Association, the Maine Chamber of Commerce and Industry, Associated General Contractors of Maine, Maine Poultry Federation, Action Committee of Fifty, International Franchise Association and many more. Maine must do everything it can do to encourage economic growth in Maine. L.D. 1916 would clearly retard economic growth by sending a nation-wide signal to franchise companies that Maine is unique and that its laws are hostile towards franchise development.

Subsequently, House Amendment "A" (H-1005) to Committee Amendment "A" (H-912) was adopted.

Representative LIBBY of Kennebunk presented House Amendment "B" (H-1019) to Committee Amendment "A" (H-912) which was read by the Clerk.

Representative HOGGLUND of Portland moved House Amendment "B" (H-1019) to Committee Amendment "A" (H-912) be indefinitely postponed.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: I would like to speak on this amendment. I think what it actually does is eliminate a lot of problems that we have had and the conflict which has occurred in the past. Because there is so much differing information being presented (and adopted) the Majority Report could have serious consequence on franchising in Maine. This amendment that I am offering is an attempt to gather facts related to franchising of restaurants and to examine and analyze the relationship between Maine Food Franchises and their franchisors.

A fact finding panel would be composed of nine members (as it states on the amendment). There would be four franchisees, four franchisors and the Governor would appoint two franchisees and two franchisors; while the President of the Senate and the Speaker of the House would select the two other franchisors and franchisees. There would also be a ninth member of the panel, a retired judge of either the Maine Supreme Judicial Court or the Maine Superior Court. These appointments would be made no later than 90 days after adjournment and the first meeting would be held not later than 100 days following adjournment. The panel must conclude its

work by November 30, 1994.

What this actually is, of course, as you can see, is a committee set aside to look at all the problems that may occur between the franchisees and the franchisors.

This bill came in front of us and at a hearing of which many, many, many people filled the Elks Hall, shortly thereafter we had a workshop and we worked on this for a great many hours. It was very difficult, it is so involved, encompasses so many things that we did not actually have the time to go over it properly before it had been presented in front of you. This is why I am requesting with this amendment to give a little breathing space to give the opportunity for both sides to present their course and their cases and their problems, if any, in front of this committee and come back to us with a bill that we can act on with a majority.

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

Representative HOGGLUND: Mr. Speaker, Men and Women of the House: A point of clarification, are we on Amendment "B" or House Amendment "C"? All the information that Representative Libby is on Amendment "C" could we have a clarification to that please.

The SPEAKER: The Chair would clarify that House Amendment "B" has been presented before the body for consideration. The pending question before the body is to indefinitely postpone House Amendment "B."

The Chair will order a vote. The pending question before the House is the motion of Representative Hoggund of Portland to indefinitely postpone House Amendment "B" (H-1019). Those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative ZIRNKILTON of Mount Desert requested a roll call on the motion to indefinitely postpone House Amendment "B" (H-1019) to Committee Amendment "A" (H-912).

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 the motion of Representative Hoggund of Portland that House Amendment "B" (H-1019) to Committee Amendment "A" (H-912) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 313

YEA - Adams, Ahearne, Aikman, Anderson, Bailey, R.; Bowers, Carroll, Cashman, Chase, Chonko, Clark, Clement, Cloutier, Coles, Constantine, Dexter, Donnelly, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Greenlaw, Hale, Hatch, Heeschen, Heino, Hichborn, Hoggund, Holt, Jacques, Jalbert, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kneeland, Kontos, Larrivee, Lemke, Lord, MacBride, Melendy, Michael, Michaud, Morrison, Nadeau, O'Gara, Oliver, Paradis, P.; Pendleton, Pfeiffer, Pineau, Pinette, Plourde, Poulin, Rand, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Spear, Stevens,



A.; Stevens, K.; Sullivan, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, True, Walker, Wentworth.

NAY - Aliberti, Ault, Bailey, H.; Barth, Bennett, Birney, Brennan, Bruno, Cameron, Campbell, Carleton, Caron, Carr, Clukey, Coffman, Cote, Cross, Daggett, DiPietro, Farnum, Farren, Hussey, Joy, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Marshall, Martin, J.; Mitchell, E.; Murphy, Nash; Nickerson, Norton, Ott, Pendexter, Plowman, Pouliot, Reed, G.; Reed, W.; Robichaud, Simoneau, Skoglund, Small, Strout, Taylor, Thompson, Tufts, Vigue, Whitcomb, Winn, Zirnkilton.

ABSENT - Beam, Cathcart, Dore, Foss, Hillock, Kutasi, Marsh, Martin, H.; Mitchell, J.; Rowe, Swazey, Tardy, Young, The Speaker.

Yes, 83; No, 54; Absent, 14; Paired, 0; Excused, 0. 83 having voted in the affirmative and 54 in the negative, House Amendment "B" (H-1019) to Committee Amendment "A" (H-912) was indefinitely postponed.

Representative LIBBY of Kennebunk presented House Amendment "C" (H-1047) to Committee Amendment "A" (H-912) which was read by the Clerk.

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

Representative LIBBY: Mr. Speaker, Members of the House: This Amendment "C" does nothing more than clarify the project on Amendment "B." Not to be confused - there is nothing more than clarification of Amendment "B" that you just beat on. I would certainly appreciate your support on this.

I ask for the yeas and nays.

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

Representative Hوجلund: Mr. Speaker, I move to indefinitely postpone Amendment "C" and ask the House to please vote against the amendment and to let them know that this does away with the bill totally and I would like you to vote in favor of that.

Representative BENNETT of Norway requested a roll call on the motion to indefinitely postpone House Amendment "C" (H-1047) to Committee Amendment "A" (H-923).

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 the motion of Representative Hوجلund of Portland that House Amendment "C" (H-1047) to Committee Amendment "A" (H-912) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 314

YEA - Adams, Ahearne, Aikman, Anderson, Bailey, R.; Bowers, Brennan, Carroll, Cashman, Chase, Chonko, Clark, Clement, Cloutier, Coles, Constantine, Dexter, Donnelly, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gray, Greenlaw, Hale, Hatch, Heeschen, Heino, Hichborn, Hوجلund, Holt, Jacques, Jalbert, Johnson, Dexter, Kerr, Ketterer, Kilkelly, Kneeland, Kontos, Larrivee, Lemke, Lord, MacBride, Martin, J.; Melendy, Michael,

Nadeau, O'Gara, Oliver, Paradis, P.; Pendexter, Pendleton, Pfeiffer, Pineau, Pinette, Plourde, Poulin, Rand, Reed, W.; Richardson, Ricker, Robichaud, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, True, Vigue, Walker, Wentworth, The Speaker.

NAY - Aliberti, Ault, Bailey, H.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Carleton, Caron, Carr, Clukey, Coffman, Cote, Cross, Daggett, DiPietro, Farnum, Farren, Gould, R. A.; Hussey, Joy, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Marshall, Michaud, Mitchell, E.; Morrison, Murphy, Nash, Nickerson, Norton, Ott, Plowman, Pouliot, Reed, G.; Simoneau, Skoglund, Small, Taylor, Thompson, Tufts, Whitcomb, Winn, Zirnkilton.

ABSENT - Beam, Cathcart, Dore, Foss, Hillock, Kutasi, Marsh, Martin, H.; Mitchell, J.; Swazey, Tardy, Young.

Yes, 89; No, 50; Absent, 12; Paired, 0; Excused, 0. 89 having voted in the affirmative and 50 in the negative, with 12 being absent, House Amendment "C" (H-1047) to Committee Amendment "A" (H-912) was indefinitely postponed.

Committee Amendment "A" (H-912) as amended by House Amendment "A" (H-1005) 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.

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

Representative LIPMAN: I move that the Bill and all accompanying papers be indefinitely postponed.

Mr. Speaker, Men and Women of the House: I rise because assuming that we have House Amendment "A" on, what does this do to this legislation?

I think we ought to be careful. We are setting something up that we may not be aware of. House Amendment "A" to the bill will leave in certain key sections of the legislation. Many of you have heard that all we are doing is changing venue, all we are doing is changing language to allow transition. That is not so.

By having the bill with House Amendment "A" we are leaving in Section 1399-C and that now becomes "A." I would like to read that to you. "A franchisee who has been damaged by reason of a violation of a provision of this Chapter may recover from the franchisor damages caused by the violation, including but not limited to cost of reasonable attorney fees, regardless of the amount in controversy and the appropriate relief including declaratory injunctive and other equitable relief." With that clause in there along with some of the other language, the bill would probably be more appropriately designated as a Lawyers Relief Act of 1994. This means no matter how little the controversy is, how much the controversy is, the franchisee can hire a lawyer and go after the franchisor and get their legal fees. It could be over a piece of toilet paper.

Ladies and gentlemen, this bill represents serious, serious problems. What I see happening is franchisors aren't going to come into the State of Maine with this. What they are going to do is set up company owned shops. Franchisees in the State of Maine are going to get hurt because what is going to happen is that they are not going to have a chance to expand.

This bill goes further than you are led to

believe. I think we have to realize that we are dealing with a fast-food industry and this is restricted to the fast-food industry. We are not dealing with consumers, we are dealing with business people who have attorneys who for the most part can negotiate these contracts if they have a choice or decide not to do it. We are dealing with both franchisors and franchisees that have lots of money as we have seen out in the halls.

What I believe we should do is stay out of it. This isn't something government should get involved with. If they don't want to franchise you shouldn't buy a franchise. If you get a franchise and you are making the money you ought to live up to the agreement.

I would like to share with you one story before I stop and let you vote on this motion.

I was approached by a franchisee who has a Subway franchise. They asked me to support the bill. They explained why they didn't want to have to go out of state to sue them and I could agree with that. Then, we started talking about the legal fees. I said to them, "How would you feel if a consumer had a bill passed just like this bill that says if they buy a Subway and they don't like your Subway they can sue you to get back the price of the Subway plus you have got to pay all their legal fees?" The Subway franchisee said, "No way." I said, "Then why do you think you should get it in the bill?" The answer I got is, "I didn't think this was part of the bill."

Ladies and gentlemen, I would urge you to vote for the motion to indefinitely postpone this bill. This is not the type of legislation we need in the State of Maine and I believe it is going to be a real detriment to future business.

The SPEAKER: The Chair recognizes the Representative from Kingfield, Representative Dexter.

Representative DEXTER: Mr. Speaker, Men and Women of the House: This is my first time that I have risen this year. I have always subscribed to the theory that it is better to remain quiet and thought a fool than open your mouth and remove all doubt.

This bill is a David and Goliath bill. It has been said that its millionaires versus multimillionaires, well you should add billionaires.

Many years ago I boarded a ship in New York Harbor with winter survival gear and of course I wound up in North Africa. On the way over we were greeted by a pack of submarines, German of course, they fired a torpedo, just missed the bow of the ship I was on, which happened to be on the port side in the rear of the convoy. Then the destroyer came along and set up a smoke screen, the first time I had ever seen it, a beautiful sight. But, that was nothing compared to the smoke screen that has been put up out here by the rotunda by the lobbyist against this bill.

Let's talk about the code of ethics. A little while ago we had a little old lady that said, "Where is the beef?" Of course, she made a lot of money. I don't expect to make any money out of saying that. "Where is the beef?" Well, we are going to put a code of ethics in there and franchisors, the people who own the big boys there, they are against putting that in there, against their own words, again "Where is the beef?" Then they want to change the rules in the middle of the game. Just an example, the giant, Pepsi-Co bought out Kentucky Fried Chicken. They immediately changed the franchise agreement, they increased royalties by 30 percent, they added new restrictions on outside business activities by the

franchisee and they forbid owners from lending money to their children to get into the fast-food business. I will agree that when you enter a contract you should enter with your eyes open but after you put 20 years of toil and sweat into a business you ought to be able to have some say, if you want to be able to pass it on to your children you ought to be able to.

Change of venue, I am not a lawyer but I guess that means something about right now you have to go to Kentucky if you want to fight those big boys in the court. Not all of us have a Mr. Matlock, besides there is only one of him.

I guess that is about all I am going to say. Let's vote on this and sent it to the other body. We will get it back in one form or another.

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

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: There is no question that this bill will effect Maine businesses. The restaurant systems that will be effected by this bill, companies like Pat's Pizza and Dunkin' Donuts, McDonald's, Wendy's, KFC, Burger King have been successful franchising for 30, 40 or even 50 years. Obviously they are doing something right. L.D. 1916 basically says to these companies that they are proven formulas for success, tailored to the individual needs of their franchisees are no longer to be allowed, instead all those companies now have to operate the same way, without the flexibility to structure their franchise systems as they see fit. This is like telling IBM, Apple, Hewlett Packard and Wang that since they are all in the computer business they can only operate one way.

In short, L.D. 1916 tells business to stop thinking individually and creatively and do business within the straight jacket of additional regulation. This bill stifles competition, it stifles growth. Who will be hurt by this bill? Not the franchisors, rather the consumers who will have more limited options.

L.D. 1916 is bad for Maine business and bad for jobs and I urge you to vote yes to indefinitely postpone this bill and its papers and I request a roll call.

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

Representative Hوجلund: Mr. Speaker, Men and Women of the House: Section 1399-A, Remedy for Civil Action is similar to what they call the Uniform Trade Practices Act. This allows the same things as the automobile dealers have the same thing. It just says that you may be able to have reasonable attorney fees, you may not. That is like in every uniform trade practice we have.

I feel the consumers in the State of Maine will be taken care of by this because I feel that these are the people who get jobs and are also serviced by our franchisees.

As I told you before and I hate to go over this but it has been a couple of weeks since we have spoken on this bill that this bill does a right of association, venue, survivorship and termination. It removes everything else other than that portion of 1399. I think at this point that on a right of association guaranteeing a franchisee a freedom to associate with any other person is fair. A venue to be able to resolve legal disputes in Maine and not another state, I think, is fair. It allows

franchisees to leave a business to their child if a child meets the qualification of a franchisor. I think that is fair. Termination; it requires notice that the franchisors have a good reason before terminating or nonrenewing an agreement. It also provides for an opportunity to cure a problem and that I think is fair.

I would ask you please to vote in favor of this bill.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I started off being totally, totally opposed to any form of franchise or this franchise practice act. I want to tell you I have personally been involved in a franchise. Thirty years ago as a young man I wanted to start a business. I started looking around and borrowed \$5,000 on my father-in-law's house, this shows you how broke I happened to be at the time. With \$5,000 and my brothers involvement I was able to pick up a Hallmark franchise. I ran this business for eight or nine years and was able to start another one. At this time I had 13 or 14 employees. When Hallmark decided to open CVS as one of their accounts I felt raked, destroyed, because they were going right across the parking lot. This was not protection for a great deal of distance, this was across the parking lot. At the time had somebody said to me we had the possibility of having a franchise protection I would have jumped on that and said, "God, this is what we need." This is the only way because there was now way of answering or going at this person. I had a vice president from Hallmark and the general manager in my office, by the time they got done they were begging to leave. I called them a few strange names that are not to be called here but, even though I would have liked to have had this, had the franchise bill been in place I don't know if I would have had the protection.

I worked this bill for almost a solid year from complete opposition from the start and then working it down -- I narrowed it down to effect that only the fast-food industry. The reason for the bill being brought to the forefront was because of the fast-food problems, a couple of people that were really involved and they wanted that kind of protection. So, we narrowed it down to just fast-food and from there, then narrowed it down even more to include only four different areas: right of association; venue - which means we get to sue or conduct business in the State of Maine; survivorship, to allow people to leave your property to your children should they want it and; termination, or a way to cure a problem if you are to be terminated as a franchisee.

I would not want to restrict people and not allow them to go into franchising. It is the area that has crated the most jobs and the most businesses. From 1982 to 1991 we had 6,000 small new businesses, most of them franchises. With this bill being no more restricted than it is I think we can live with this bill, give these people the protection that they should have.

When you are dealing with a corporate giant, believe me you can holler and make all the noise you want and call them names, there is nothing you can do. I think these businesses deserve to have at least this kind of protection.

I encourage you to oppose the indefinite postponement of the bill and support the franchise

practice act.

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

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: As the good Representative Heglund has said, the civil action section is still in this bill. She terms that as like a fair trade practice act. However, we are not dealing with consumers here, we are dealing with business people who have resources. To say that the franchisee can get their legal fees paid and the franchisor can't that may sound okay if we are talking about a McDonald's or we are talking about a Kentucky Fried Chicken but we also have in the State of Maine, Pat's and we also have Mister Bagel. What you are really saying to them is that whenever they have a dispute they can't win. That is unfair and we shouldn't pass legislation that does that because that means that any Mister Bagel franchisee or any Pat's franchisee who goes to court (over no matter how small the controversy is) they are entitled to get their legal fees while the franchisor cannot. This is an unequal bill.

There may be sections which people do not find offensive but this particular section was in the original bill as remedy of civil action which is now under Amendment "A," section A, is a hooker, and that creates a very unfair and unlevel playing field. For that reason alone I believe you should support the motion.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Kneeland.

Representative KNEELAND: Mr. Speaker, Ladies and Gentlemen of the House: I stand to oppose the indefinite postponement of this bill. I wish to particularly address the issue of succession of passing a business along to one's children. Maine has a tradition of proud family-owned businesses. Virtually every legislator in this room knows of a corner store or restaurant in your home town which has been there for decades and which has been passed on from father and mother and children to their children. These places give a special sense of continuity to a town and more to the point that is where you go to find out what is happening. As a politician we spend a lot of time in these stores.

A franchise business is no different than a corner store. It is started with a family savings and is built by a family's hard work. It is a labor of love, everyone is involved, yet there is a difference between a corner store and a franchise. Under a franchise agreement the owner has no right to pass his or her business along to a spouse or children. If the owner dies the national corporation can be along any moment and take their franchise away before the family's tears are even dry. This is apparently the way business is done these days in the rest of the United States. Let me tell you one thing, it is not the way we do business here in Maine.

This amendment and this bill will prove a basic protection for family business for franchise owners. Under this bill if Maine owners die or are incapacitated family members will have the right to try and continue the franchise. Notice, I did say try. It is not an absolute right, a family member must demonstrate to the National Corporation that he or she is qualified and has the money. If a family member is not qualified the franchisor may join to follow a series of simple steps of notification explanation before formally discontinuing a franchise

agreement. This is not a sense of giveaway, it isn't a welfare program for the franchise families, it is simply enduring opportunity, giving a son and daughter the opportunity to prove that they can carry on the family business. Isn't that what economic development is all about. Isn't enduring a kind of opportunity one of the reasons we all choose to serve in public life? There are a lot of tough issues we face in this body, issues of pitting two desirable good against each other, issues we must struggle over. This issue pits the sons and daughters of Maine families against the interest of large out of state corporations. To me this is not a tough choice. Let's vote for the kids and vote against this indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from Green, Representative Saint Onge.

Representative SAINT ONGE: Mr. Speaker, Members of the House: I would like to thank the good Representative from Augusta, Representative Lipman, for his comment because as we struggled with this bill in committee it was very true, the point that was made that was in fact an unfair playing field and we somehow needed to level it off.

This bill addresses those concerns, not all of them. This bill by no means covers all of the issues that were covered in committee. We are dealing with four basic issues. The issues again were venue, survivorship, right of association, and termination. Again, I wanted to bring to your attention that under remedy for civil action it does say "may," not "shall." I do hope that you will vote against indefinite postponement.

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

Representative BOWERS: Mr. Speaker, Men and Women of the House: I think many of the speakers have spoken very succinctly today and I am not going to further their arguments. I am in favor of this bill. I urge you to vote against the pending motion.

I do want to point out that we already regulate a number of different franchises, we regulate the snowmobile dealers, we regulate the automobile dealer franchises, we regulate the beer and wine wholesalers and we are not talking about regulating any of these fast-food restaurants in any way shape or form as much as we do these other franchises. I urge you to vote against the pending motion.

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

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask a question if I may. I have heard this morning on several different occasions if you have a franchise you cannot pass it on to your family. Can anybody tell me how many times that has happened in the State of Maine?

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

The Chair recognizes the Representative from Houlton, Representative Clukey.

Representative CLUKEY: Mr. Speaker, I would pose a question through the Chair. It concerns the survivorship portion of this. For anybody that could answer this question — when a franchisee goes into the contract do they know this up-front, that they can't pass it on to the children or is this something that has changed in midstream?

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

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: To answer the Representative from Houlton's question, a franchisee in the initial contract negotiation does know what is going on. But, franchisees also have a thing called renewals which is part of what spurred this on. During that process of renewal, the rules can change. The basic rights and understanding of the people who vested 20 years (when their renewal come up) change. They don't have those rights and, if they do end up in a law suit they end up in Detroit with a Little Caesars where their Heroes are there or, you wind up in Kentucky with a Kentucky Fried Chicken where the Colonel is from. It is a basic right — are we going to supply basic rights to our small business people, to people that invest and toil, as Representative Dexter said?

And, to further go on to steal some of Representative Dexter's thunder, is a smoke screen. Representatives who I have a great deal of respect for and are very capable lawyers have spotted something — they find a problem with this.

This bill is now in its second reading and that is when it is amendable. I think if there is a problem with one section of the bill that has been pointed out, I would welcome an amendment to clarify that or, if it is just being used as an argument to kill an overall good bill, I have a serious problem with that.

I hope that you follow my light on defeating this indefinite postponement motion.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: L.D. 1916 attempts to get the Legislature involved in business relations where no real problems have been shown to exist. The fast-food industry has been very successful for both franchisors and franchisees.

I want to talk about three provision of this bill in particular. First, it attempts to regulate how franchisees deal with the issue of terminating contracts before they expire. There is no evidence that any franchise in Maine has been terminated unfairly.

Second, it attempts to regulate how franchisees deal with renewal of agreement. There is no evidence that any franchisee in Maine has been unfairly turned down for renewal.

Third, the bill attempts to regulate how franchise deal with situations where the franchisee dies and the survivors want to continue the business. There is no evidence that any survivors of a franchisee has ever been unfairly denied the right to carry on the business.

I urge you to keep the legislature out of a healthy business by voting for the pending motion.

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

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

To anyone who could answer it, has any family transfer been turned down in this state in the past ten years over time?

The SPEAKER: Representative Norton of Winthrop has posed a question through the Chair to any member

who may respond if they so desire.

The Chair recognizes the Representative from Kingfield, Representative Dexter.

Representative DEXTER: Mr. Speaker, Men and Women of the House: Yes, I know of one which precipitated this bill.

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 Glenburn, Representative Winn.

Representative WINN: Mr. Speaker, Men and Women of the House: Could that Representative elaborate on what he said. I haven't been aware of any situation where somebody has been turned down rights to inherit the business. It is very hard for me to believe if the person was doing an effective job that the organization would not allow them to inherit the business. It doesn't make any sense and I would like him to elaborate on that if indeed there is proof that people have not been able to inherit businesses.

The SPEAKER: Representative Winn of Glenburn has posed a question through the Chair to Representative Dexter of Kingfield who may respond if he so desires.

The Chair recognizes that Representative.

Representative DEXTER: Mr. Speaker, Men and Women of the House: To the good Representative, I would be glad to take her out and introduce her to those people.

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

Representative HOGGLUND: Mr. Speaker, Men and Women of the House: This is one of the reasons we have put this franchise law in. There are some transactions that are happening now that possibly can't happen unless it is because of survivorship.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Ketterer.

Representative KETTERER: Mr. Speaker, Members of the House: I would ask you to vote against the motion to indefinitely postpone the bill and all its accompanying papers. While there are many sides to this particular issue I just want to highlight a few very briefly.

I was contacted by a friend who lives in central Maine whose father has a chain saw dealership for a number of years, ran it successfully for 18 or 20 years, turned it over to his adult son who ran that dealership for probably nine or ten years. There were different renewals that came up. There was largely no negotiation that took place between the franchisee and the franchisor. They were preprinted documents submitted for signatures, they were signed and sent back and business went on as usual. Regrettably this individual had a disagreement with somebody in the central office and 30 days after that disagreement he got a registered letter telling him that in 60 days he wasn't going to have his franchise any longer. It cited some particular paragraph that was in the preprinted document.

That individual learned firsthand about the unequal bargaining power between the franchisee and the franchisor. That person still conducts business but is no longer a dealer for that chain saw

manufacturer.

In addition, I want to address one other issue that has to do with the rights of Maine citizens to use Maine courts. Many of the preprinted documents that the franchisors put out indicate that if there is a dispute, disagreement, involved regarding that contract that the parties have to litigate it in the home state where the franchisor is located. The problem with this is that it is a practical matter, this is very burdensome, difficult and expensive for the local franchisee who frequently may be a family enterprise or a partnership or group of individual who would be located here in the State of Maine. We have our Maine courts used by Bath Iron Works, by L.L. Bean by the corner store, by virtually every business in Maine except for businesses that are connected to franchise agreements. And, those franchisees are required, when they have disagreements, which invariably they have at some point during the contract or during the renewal of a contract, they have got to go to the home of the franchisor and they have to litigate there.

As you can probably figure out, when you have got to go to Kentucky in order to litigate against the Colonel, the Colonel has got a few aces when he litigates in his home state.

I don't think that the franchisees are asking for any special rights, they are simply asking for the same right that other Maine individuals and other Maine businesses already have, to litigate their dispute in Maine courts. They are not asking for special protection, they are asking for the same protection that all of us already have.

If we pass this bill, those franchisees will continue to be first class citizens like everybody else in the State of Maine. Those small franchisees or small business owners in Maine who provide jobs and income to people, they deserve it and so do your constituents.

I ask you to defeat the motion to indefinitely postpone the bill and all its accompanying papers.

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

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House: I am not a lawyer and I neither speak in legalese nor am able to decipher legalese very often. So, in my simple way, I understand the contract to be simply two parties whether it is a group or whatever, two sides and there has to be a meeting of the minds to have a legal contract. Now, if there is not a meeting of the minds, there is no contract. So, therefore, in my opinion, my own way of interpreting it, if a little person, the so called franchisee, has not understood the terms of the contract then there was no meeting of the minds and therefore there is no contract. So far as I know no one ever holds a gun to the head of a person to make them sign that contract on either side. Therefore, at this point, I feel that the state is being asked or this legislature is being asked to get into another area of business regulation.

I hear constantly from business, "Get the state off my back," "Leave us alone," "We can do it ourselves," "We can take care of things on our own. But, now we are being asked to get into the middle of it and deal with this.

I would ask you to vote to indefinitely postpone the bill and all its papers.

The SPEAKER: The Chair recognizes the

Representative from Green, Representative Saint Onge.

Representative SAINT ONGE: Mr. Speaker, Members of the House: Unfortunately this bill is dealing with businesses, it is dealing with the issue that there is not a level and fair playing field.

The issue of survivorship is continually raised. I want to bring to the attention of the House that this book that I am holding is a contract agreement that is given to franchisees, all franchisees, due to the Federal Trade Commission. Federal Trade Commission Law, this is required. In this particular booklet this is a contract that is given to a franchisee. One of the problems that we have been experiencing is that there is not a level playing field. There are no opportunities to really negotiate certain issues. The time of renewal has become a problem.

In this particular contract I wanted to read to you one section in regard to renewal. It says, "The franchisee must execute a new franchise agreement on the forum then being generally issued by..." (and I won't name the company) "for new franchised outlets of the same type except that the franchise agreement to be executed upon renewal will not contain any renewal rights" it is a nonnegotiable item. At the time of renewal when people have invested 20 and 30 years of their life this is where survivorship and this is where and why this bill is needed in order to maintain those businesses and being able to pass them down. We are protecting the small businesses of Maine, not hurting them.

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

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: I sometimes feel that we, the government, go sticking our nose in in too many places. I know that may seem a little unusual for a person who is elected to office but I really sincerely feel that way.

However, I also feel it is a legitimate exercise of government to step in and give protection to those people who need them. When you have a national or multi-national corporation, capable of changing its leadership and its policies as a corporation over night and they are dealing with citizens of Maine who are franchisees, who are collecting Maine money from the Maine economy to conduct business, hopefully to the mutual satisfaction of all — those people, should they be sued or should they run into contract problems, it creates a burden. I think an unnatural burden in the business world for them to have to respond in Colorado or Kentucky or Florida or wherever it may be. Therefore I do think it is — and I say to you and ask you to vote against this motion to indefinitely postpone because it is a legitimate exercise of our government to protect the businesses of this state and to do that by having the venue in the State of Maine.

I also heard, with great wonder, the argument of the good gentleman from Augusta when he mentioned the right of suit and attorney's having to perhaps receive their money by a court order. It is quite often done in many different types of situation (as I am sure he is fully aware of) that when you are the aggrieved party, become the plaintiff (if you will), and go to court, you have a right to expect to be made whole. That is a part of it going to court. To be made whole that includes covering your expenses of going to court. That includes in those expenses reasonable attorney fees that would be involved in

that process.

I really think the part about it being a lawyers dream really doesn't hold much water when you look at it and give it close examination.

I think what we have here are Maine owners or Maine franchisees who are working hard to create a business that melds into the Maine economy who are at risk of losing what they have spent their business career working for.

I therefore will be voting against the indefinite postponement to support the small businesses of the State of Maine and I hope you will do likewise.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I just want to bring one thing to mind. If anybody has traveled and shopped the Auburn Mall — recently the name of a store there which is a name that I used for a number of years, called the Carriage House. It was originally called the Carriage House and owned by my brother and I had them in the Waterville area, recently the name has been changed, I think, to Gregory's. Let me tell you what happened. The young man bought the store from my brother, has been operating the store for somewhere around six or seven years. Through the years he has had some problems. Two months ago he received a call from Hallmark, just to give you an idea of what happened in the corporate mentality, he received a call and said you have got to sell the store, we are not shipping you again. He tried everything, he borrowed money. A man from New Jersey bought it sight unseen, the name is now Gregory's. It was done strictly on the phone, they told him we are not shipping you any more because of a past history of being slow paid or having a few problems. They stopped him, now the store has a different name and there was no legal remedy at all for him to use.

We do have some problems and I think this is probably a start and will help us to try to correct some of the problems that we have in the State of Maine.

I urge you to vote against the pending motion and vote to support the franchise bill.

The SPEAKER: The Chair recognizes the Representative from Glenburn, Representative Winn.

Representative WINN: Mr. Speaker, Ladies and Gentlemen of the House: I have a couple of comments to make. First of all I want to make it perfectly clear that I am not advocating for fast-food restaurants. I personally don't care if we don't have another one in the state. However, I do want to state that some of the information we are getting is not accurate, that I have indeed suffered a loss of jobs that are related to franchise restaurants in the state. Overall if it is just restaurants are doing okay but franchise restaurants really have suffered.

I also want to remind you of what the lobbyist for the beer and wine industry said weeks ago when we were hearing this issue when he made the comment of how it reminded him of a client always trying to be able to become a liquor agency store and saying that the requirements were too stringent and they needed in and as soon as they qualified for being a liquor agency store they wanted the requirements even tougher.

I also want to make sure that the point has been made that we do not have any proof whatsoever that there has been a problem with survivorship. Right now you are considering making a law for something

which we have, again, no proof that a problem exists.

The second point I want to make is that the system is working. It is one of the few things that does work in the state for creating jobs, not the best jobs of course but they are jobs, nevertheless. At least 85 percent of these businesses are successful, people are getting wealthy on these.

I might point out that to open up a McDonald's it cost \$125,000 to get in. These aren't the average typical citizens that you are trying to protect here, these are wealthy, intelligent people who have lawyers that read these contracts. These contracts are signed under their own free will. They are sophisticated business people who don't need our protection at this point.

I would also like to point out to you that when there was the issue earlier this session about the price of electricity and qualifying facilitators — we decided at that point it shouldn't be the place of the legislature to get involved in the private contract. I see this as the same type of issue.

In conclusion I want to point out that what I think the state needs most is successful small businesses. As I mentioned a week ago, every month I get that blue card from the Department of Labor and every single month for the last two years the unemployment rate in this state is going up and I am tired of seeing those figures going up. I came down here to help the businesses and to create a more viable economic situation in this state, not to make it worse.

I also want to point out that this is certainly not an emergency. Okay, we don't need to make this decision this quickly, we can wait until later. I want to remind you all of all the different organizations and the small businessmen that are against this bill, they include the Maine Alliance, Maine Merchants Association, Maine Restaurant Association, Maine Innkeepers Association, Maine Chamber of Commerce and Industry, Associated General Contractors of Maine, Maine Poultry Federation, Action Committee of Fifty, International Franchisee Association, the Maine Department of Economic and Community Development, the City of Brewer, the City of Bangor, Pat's Pizza and Mister Bagel. I do want to say that we don't need to be the second state in this entire nation to pass a law and to act so hastily on this if we are not sure about the implications.

I do want to mention that I have heard over and over again some insinuations that people are not allowed to inherit these franchises. Again, I want to say there is no proof to that effect and, in fact, I have a letter in my hand dated June 19, 1992 and it states — it is written from a Vice President and Franchisee Contract Administration for a fast-food franchise company and it says, "Upon your statement to us that you wish to transfer either all or a portion of the stock to your child, if you would advise us we will send you the necessary documents. This process can be completed in less than 30 days from the time that we receive the written statement as to your particular preference."

It makes it very clear that back in June 1992 that the company was more than willing to do this, to let the child inherit the business and it would only take 30 days to do it. Instead of going that route they have tried to insist that we pass a law to protect them when there is no necessary reason for doing it.

Another point that has never been made is that

there are options for mediation that you can go through and none of the companies bother to go through that. I suggest that if there is a problem they go through mediation and that we don't have to create a law now that might jeopardize healthy small businesses in this state.

I encourage you to indefinitely postpone this bill.

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

Representative TARDY: Mr. Speaker, Men and Women of the House: Very briefly. I went through this survivorship issue back in 1984 with a major farm equipment manufacturer, subsequent to that there is legislation on the books regarding farm equipment dealers and other types of dealerships that is very very stringent. It makes what is left of this franchise legislation look like a bibliography from a child's Golden Book. Let me tell you something, the manufacturers, every one of them, are cruising the State of Maine, up and down Interstate 95 and the length and breadth looking for dealers, so it didn't deter them one iota from doing business in the State of Maine. The only reason they do business in the State of Maine is because they can make money. This franchise legislation isn't going to hold back one of them. I urge you to defeat the impending motion.

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

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: With all due respect to the efforts, and I know they took a lot of hours out of their time to spend on this bill, the efforts of the committee involved.

I likewise took a lot of hours out of my schedule to meet with franchisees, to meet with the key players in this from both sides. I figure I spent 12 to 15 hours on this bill.

I heard mutual concerns and mutual considerations. I am in the middle, like usual, back and forth — I see both sides here.

I was shocked when I tried to set up a meeting between both sides, two individuals — one from each side. One of them refused. I don't think it is important to know which side refused the meeting but there is a lot of concern, a lot of anger, a lot of strong feelings on this bill.

I understand that we feel that we have to do something here and I feel that we do have to do something. But, again I don't like it when something gets pushed down our throats or when the pressure is so great that we have to do it now without thinking something through.

I remember Representative Martin speaking to us one time from the podium saying nine out of ten bills that we deal with here are just to fix problems with past bills, past bills that we didn't think through.

I understand that the franchisees are forming a trade group, that is one of the good things that came out of this effort.

I want to commend Representative Libby for his effort to bring some reason to this subject matter. I think he was right on with his suggestion that there should be a panel put together that both sides be forced to sit together and figure this out so that everybody goes away thinking that their voice has been heard, their concerns have been heard.

I am convinced from talking to representatives from both sides that this could happen if they just sit down together. When we are talking about the pressure that is exerted here with lobbying bills of



\$100,000 plus, I understand from one side — I don't know about the other side. Something is going on here and I don't want to do something that is going to damage the message that we are going to send out to businesses in this state and nation wide. I think we should slow this down a little bit. I agree with Representative Winn, this is not a dire emergency here. I know this is now a fast-food bill but I don't think it requires fast decisions.

I will be voting to send this bill to the Senate in hopes that some reason prevails over there and that Representative Libby's amendment maybe will be revived over there. But, if this does not change and the bill comes back to us in the same form it is in now I will be voting against it.

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

Representative KERR: Mr. Speaker, Men and Women of the House: If you listen to this debate today you might imagine a franchise act was something like aliens invading another planet here. It is not this at all. The truth of the fact is that Maine has lots of franchise acts already.

We have heard the good Representative from Washington suggest that we have franchise acts similar to oil distributors, farm machine distributors, beer and wine distributors, auto dealers, snowmobile dealers — that was passed last year by this legislation. I am not aware of any of them coming back and asking us to repeal that legislation.

Somehow the national corporations and all these businesses have found a way to live within the law and do business in this state. Chrysler, General Motors, Ford, Toyota, all are still selling cars in this state even though we have a franchise act for car dealers. No one has gone out of business that I am aware of because of these franchise acts.

I look at this legislation or this franchise act — it is a bold new requirement but all it is simply codifying common sense, fairness and honesty. This is not going to hurt businesses in this state.

We have heard about franchisees renegotiating contracts and what they sign originally. Can't they live with that? A lot of these franchises are sold to larger corporations. The same person that they made the deal with maybe doesn't own that same franchise. This is not something new for this state.

We will be back here again, many of us, next year, if there is a problem I am sure it will come back to the floor of this House in another form. I would urge you to vote against the pending motion.

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

ROLL CALL NO. 315

YEA - Ahearne, Aikman, Aliberti, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Campbell, Carleton, Carr, Cashman, Cathcart, Chonko, Clark, Clukey, Cote, Cross, Daggett, DiPietro, Farnum, Farren, Fitzpatrick, Foss, Gamache, Gould, R. A.; Gray, Heino, Hussey, Joy, Kilkelly, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Marshall, Martin, J.; Michaud, Mitchell, E.; Morrison, Murphy,

Nash, Norton, Ott, Plowman, Pouliot, Reed, G.; Saxl, Simoneau, Small, Spear, Stevens, K.; Sullivan, Taylor, Thompson, Tracy, Tufts, Walker, Whitcomb, Winn, Zirnkilton.

NAY - Adams, Anderson, Bowers, Brennan, Cameron, Caron, Carroll, Chase, Clement, Cloutier, Coffman, Coles, Constantine, Dexter, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Gean, Greenlaw, Hale, Hatch, Heeschen, Hichborn, Hoglund, Holt, Jacques, Jalbert, Johnson, Joseph, Kerr, Ketterer, Kneeland, Kontos, Larrivee, Lemke, Lord, MacBride, Marsh, Melendy, Michael, Mitchell, J.; Nadeau, Nickerson, O'Gara, Oliver, Paradis, P.; Pendexter, Pendleton, Pfeiffer, Pineau, Pinette, Plourde, Poulin, Rand, Reed, W.; Richardson, Ricker, Robichaud, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Simonds, Skoglund, Stevens, A.; Strout, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Treat, True, Vigue, Wentworth, Young, The Speaker.

ABSENT - Beam, Bruno, Hillock, Kutasi, Martin, H.; Swazey.

Yes, 64; No, 81; Absent, 6; Paired, 0; Excused, 0.

64 having voted in the affirmative and 81 in the negative, with 6 being absent, the motion to indefinitely postpone the Bill and all accompanying papers did not prevail.

Subsequently, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-912) as amended by House Amendment "A" (H-1005) thereto and sent up for concurrence. Ordered sent forthwith.

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

Expression of Legislative Sentiment recognizing the members of the Vinalhaven High School Math Team (HLS 945) which was tabled by Representative SKOGLUND of St. George pending passage.

Subsequently, was read and passed and sent up for concurrence.

Expression of Legislative Sentiment recognizing L.T. "Pete" Pedersen, of Vinalhaven (HLS 959) which was tabled by Representative SKOGLUND of St. George pending passage.

Subsequently, was read.

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Skoglund.

Representative SKOGLUND: Mr. Speaker, Ladies and Gentlemen of the House: Quite frequently we have an athletic team appear as guests but I thought it would be appropriate if we had an academic team today.

I hope the Vinalhaven team realizes that if some of you looked apprehensive when you heard the word Vinalhaven they should understand that last week we took up the urchin bill concerning Vinalhaven and I am sure that some of these people might have been afraid that you were carrying concealed urchins and knew where to aim them.

On a serious note the Vinalhaven math team has really done an outstanding job not only for their community but for the state. They have gone to



several national conventions. They have been to Hawaii, Ohio, Alabama; Princeton, New Jersey, Tampa and have done a good job wherever they have gone and they have been a credit to our state.

Mr. Pederson has been a teacher on Vinalhaven since 1977. His first experience with a math team was not entirely successful, his team finished last the first time they competed. He vowed it would never happen again and it hasn't.

This is made possible not only by a dedicated teacher and good students but a supportive community that finds the resources to support these young people in the endeavors to represent the State of Maine in these math meets. I think it indicates to us if we really want excellence in education what we need to do is find excellent teachers, give them the support and then for the most part leave them alone and do their job.

I want to thank these people for coming to visit with us today.

Subsequently, was passed and sent up for concurrence.

#### 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 DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-849) - Minority (5) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act to Separate Peaks Island and Certain Other Islands in Casco Bay from the City of Portland" (EMERGENCY) (H.P. 1082) (L.D. 1448)

TABLED - March 31, 1994 by Representative JACQUES of Waterville.

PENDING - Motion of Representative ANDERSON of Woodland to reconsider whereby the Minority "Ought Not to Pass" Report was read and accepted.

Representative ROWE of Portland requested a division on the motion to reconsider.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: This bill is an issue that has been very important to me as a member of the State and Local Government Committee for the last four years. On the day that the bill was debated, as we know it was on the calendar for a considerable length of time, on the day that it was on the calendar, I was called away because of a health concern with a member of my family. I very much appreciate the efforts of some members of this body to table this bill so that I would have an opportunity to speak on this issue and I would appreciate it if we would in fact reconsider and once again discuss this issue.

Representative ROWE of Portland withdrew his request for a division.

Subsequently, the House voted to Reconsider.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: In discussing this bill with people that were present during the debate it was my understanding that there was a great deal of concern about passing this bill as an individual bill prior to passing the process bill which, as we know, is now back to the committee and will be forthcoming to this legislature. One of the things that has been important to the committee is that we do develop a process so that in future sessions we don't have numerous bills, not this bill from islands, I think that becomes very limited, but other bills that are dealing with secession.

What I would like to do very quickly is to walk through what has happened in terms of Peaks Island and how in fact they have met the conditions that have been discussed in the process bill.

We have, in that bill, talked about the idea that a territory may secede. Obviously the people on Peaks Island made that decisions — that there were people that came to the legislature with a bill to say that they wished to secede from the City of Portland.

There is a petition process required in the process bill and the people on Peaks Island in fact have gone through a petition process and were successful in getting more than ten percent of the people on the island to sign that petition.

There was a legislative hearing. In the process bill there is discussion about the municipal officers shall call a meeting, it will be advertised and people that wish to secede must present their reasons for secession. That process happened in the legislative hearing. Obviously the hearing was advertised, the hearing brought forth people who were on both sides of the issue and they were able to present their concerns.

There is a 30 day cool-off in which people have an opportunity to go back and think about what happened at that meeting and do we really want to proceed or not. I this situation there has been several months of cool-off in terms of the difference between the two legislative sessions and the months that people have had to go back and rework these issues.

There is the creation of a local committee in the process bill. On Peaks Island there was a survey that was conducted with the Muskie Institute, they canvassed 62 percent of the registered voters and 93 percent of them at that time wanted the right to vote. It is not the same as saying they wanted to secede, they wanted the right to vote.

There was the Peaks Island Research Committee created which has approximately 50 members with 15 core members. So that condition has been met.

The process bill requires the creation of an effective date and the bill in fact would address that as well.

In the mean time the requirement on the part of the seceding area is that they would address issues such as the provision of educational services, the division of assets and liabilities and other issues that need to be addressed prior to the creation of either a separate town or annexation.

The town budget for Peaks Island has been developed and they have been working with a CPA firm for input and oversight in that process.

There are a number of issues in the process bill which must be discussed by an area wishing to secede. Population trends, land issues, land uses — residential and commercial, land use control, the

present government services, pollution issues, tax rates and issues, the effect of the proposal on adjacent communities and the adequacy of town government to deliver services. All of those reports have been worked on by the secession committee and that information will be presented to voters of Peaks Island at the time they would be voting on this issue.

There is a Commission on Secession which was created in the process bill. That commission is comprised of folks at the state level who would assist those people that are interested in seceding with putting together the information, reviewing that information, assuring that it is accurate. That has been done in this case by staff. The staff for the State and Local Government Committee have worked diligently to be in touch with the Department of Education, the Taxation Department, DEP and other groups that have information that needed to be put together in terms of this bill.

On issues that could not be agreed to by both parties there is a provision for arbitration in the process bill and there is also arbitration in the bill that is pending before us.

In the process bill there is a final report and final approval by voters and an approval requirement of two-thirds of the voters in order to proceed. In this case the approval by the legislature would send this issue back to Peaks Island and would provide for them an opportunity to vote on the issue of secession as an island. It would not require a two-thirds vote, that is a different and that is something that is of a concern to people on both sides. Some folks feeling that a two-thirds requirement is very important, other folks feeling that if you have a two-thirds requirement and you miss it by a small number of votes then more than half the people in your community in fact would prefer to secede but are hampered from doing that.

There is a provision in the process bill for an advisory referendum at the option of the parent community. That is an option, it is not a requirement and it is not addressed in this bill. However, again, it is an option and not a requirement, it is something that could in fact happen.

Then at the end of the process bill is approval by the legislature. In fact what we are trying to do is turn that process on its head so that the bills don't come to us at the beginning, they come to us at the end. In the case of Peaks Island, this issue has been before us for the last three years and in fact they have gone through all of the processes that are required in the process bill with the exception of the two-thirds vote and the bill is before us. At this point in time the people of Peaks Island are requesting an opportunity to vote, we are not voting today to allow to require Peaks to secede from Portland, we are merely saying that the people of Peaks Island have an opportunity to vote on whether or not they wish to remain a part of Portland and that is what we are voting on today, is merely the right to make that decision, that right of self determination.

I would urge you to vote in opposition to the Minority "Ought Not to Pass" Report so that we could further go on and accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Townsend.  
Representative TOWNSEND: Mr. Speaker, Men and

Women of the House: When we argued and debated the small island bill earlier this session I made a point of seeking out as many of you as possible to discuss my views with you. I am very grateful for the overwhelming support that we got here in this body on that bill.

Since then a number of my friends and colleagues have approached me to ask, is Peaks Island different? I want to provide for you my answer. The answer is yes and no. Yes, Peaks Island is different. It is different from the three small islands we discussed earlier.

I do not however support this bill allowing its secession and I would like to outline for you why.

First of all, my constituents who live on the mainland in Portland have no input into this process. My speaking to you today is their only input into this issue.

I cannot support allowing two bodies this body and the residents of Peaks Island to decide an issue which impacts a third group of people without allowing that third group any input.

Second, process. We have talked and talked about a process bill. The fact of the matter is we still have not passed one. I am not promising you today that I will be supporting the process bill we expect to see soon. I don't know enough about it to say that I will.

I would argue, contrary to my friend, Representative Kilkelly's arguments, that Peaks Island has not met all the conditions that are in the process bill we expect to see soon. Again, a key piece of that process to me is the involvement of the rest of the community and the Peaks Island situation has not met that criteria.

Third, financial impact. Contrary to what you have heard from others there will be some financial impact as a result of this bill on the rest of the community. It simply does not meet standards of common sense to say that to allow an entire neighborhood which contains very valuable, very desirable property to secede from the mainland community will not impact the rest of the community in a financial way. I don't argue that Peaks Island should be maintained as a cash cow but we must recognize that there will be a financial impact.

Fourth, this is a fundamental issue for me, the fracturing of community. I do not support addressing our problems by allowing communities to fracture. I would far prefer that we address the underlying issues, primarily the property tax and its relation to the school funding formula which have brought these issues to a head in recent years.

Fifth, Peaks Island, yes it is different from the three small islands. It does have a legitimate year-round population, that is true. I couldn't tell you the wealth of the people who live there, I don't think that is an issue. It is however a very easy commute from Portland, from downtown Portland. It is a ten minute boat ride, the boats run regularly.

One of the members of the Portland Planning Board lives on Peaks Island. A number of staff people for the City of Portland live on Peaks Island. It is no more hard to participate in City government as a resident of Peaks Island than from other parts of the City.

I have a friend who is an attorney in downtown Portland, very active in issues, I see him regularly at the Democratic City Committee which meets on Sunday nights, not a convenient time. I see him

regularly at board meetings in Yarmouth which start late and go late for a non-profit organization we both belong to. If you are willing to make the commitment to get involved in civic matters, in government, in community issues you can do it if you are a resident of Peaks Island.

Finally, I grew up in a small rural town in central Maine as I am sure I have told you before. Having lived there I know that there are trade-offs in a remote community. What one gains is a unique way of life, a beautiful, quiet, safe and peaceful way of life but there are trade-offs. It is a little harder to get to McDonald's or to the local hangout that many of my teenage friends spent time at when I was growing up in the Skowhegan area. But those trade-offs are a given. I do not understand those who have made the choice, and many people who live on peaks island have made the choice to move there and must accept the trade-offs that go with achieving that beautiful, safe, quiet, peace — way of life.

I oppose any attempt to pass this bill. I would ask you to accept the Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair will order a vote. The pending question is acceptance of the Minority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative JOSEPH of Waterville 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 Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I will not take up a great deal of your time, we have discussed this issue of separation in the City of Portland of Peaks Island at length. However, there is a legitimate disagreement here, Peaks Island is different. There is no guarantee that if this body and the other body would agree that the Peaks Island residents may have a referendum to decide whether or not they will secede that that will be successful.

The only vote that you are taking here today is whether or not you are going to allow a group of citizens who are a section of Portland, called Peaks Island, to vote in a referendum vote to secede or not to secede. Then the process that you have heard described will kick in, so to speak.

We may have a process bill and we may not. There will be one for you to vote on, it may fail or it may be successful.

The involvement of the rest of the community is in fact part of what has been going on to the residents of Peaks Island for a number of years, perhaps four years. They took their case to the elected representatives of the City of Portland, the people on the city council and that city council listened to their grievances and tried to address them appropriately. A decision was made of independence, self determination an opportunity to vote whether or

not to secede.

There may be some, but very little, a very small percentage of a fiscal interest of Peaks Island of the City of Portland.

As I stand here and discuss these bills with you as I have in the past I think of a philosophical saying that I have advised parents that I know (and listen to myself) is the best thing that we can give to our children is roots and wings. I would say the best thing the City of Portland has done for Peaks Island has given them the base, their roots, and now it is time for the City of Portland to give them wings if they choose.

I understand the difficulties, I understand the financial and fiscal interests and I understand the interests of the people of Peaks Island. I would say let them vote.

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

Representative RAND: Mr. Speaker, Men and Women of the House: It had been my intention to have a process bill in place before we voted on this particular piece of legislation. Due to the intricacies of the legislative process that will not be the case, the bill is before us now.

I would urge you to accept the Minority "Ought Not to Pass" for really one very specific reason. As the legislative body, we are being asked to allow or disallow enabling legislation, to allow a vote to take place somewhere in this state that will have an impact on the municipality and the neighborhood that wishes to secede.

While many people might say that is really something that I should be, as a legislator from Eagle Lake, that I would be concerned with, this is a Portland problem, a particular problem to a particular area and I see nothing wrong with letting people vote. What we don't know, as policy makers, is what effect this particular move or any other move to secede has on the school funding and GPA. It is my belief and from what I have been told that if the City of Portland and — if Peaks Island separates from the City of Portland Portland's value decreases by quite a few million dollars. Therefore no matter what we end up with as a school funding formula presently, Portland will be entitled to more money. That is something that as a Portlander an a Portland taxpayer I should be very excited about.

The truth is, as policy makers we should know one way or the other how a separation such as this effects a very limited amount of money and how that pie is going to be divided among all of our communities. That is why it had been my intention, as I said previously, to wait for the process bill to be in place. We aren't going to have that so I have to ask you to please vote to accept the Minority "Ought Not to Pass." We don't know the impact this bill of possible secession will have on GPA.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I just want to say that it doesn't make any difference what town or what community wants to secede, absolutely there will be a financial impact on the town which they are leaving because of the structure of school funding and our tax program in the State of Maine. The question here is do these people have a right to decide for themselves if they want to be a separate town and assume all the obligations of being a town. These

problems, these financial problems will be worked out in the process of the secession. This has happened many times before. If the Maine Legislature at any time decides that they want to have a secession bill then from then on the secessions will be done under the guidelines of such legislation.

However, if they do not pass a secession bill, a process bill, then we will continue under this same structure as we have now.

I urge you to grant the people of Peaks Island the right to decide for themselves if they want to become a town.

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

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I have looked at this community inside out. I have read all the literature. I have talked to the people. I think by any standard that is set in a secession bill, this is a community that meets any qualification that we set to be a community.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Minority "Ought Not to Pass" Report.

The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, pursuant to House Rule 7, I wish to pair my vote with Representative Cloutier of South Portland. If he were present and voting he would be voting nay, I would be voting yea.

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

ROLL CALL NO. 316

YEA - Bailey, H.; Bailey, R.; Bowers, Brennan, Carleton, Caron, Chase, Chonko, Clark, Coles, Constantine, Cote, Cross, Daggett, Dore, Driscoll, Dutremble, L.; Faircloth, Gean, Hale, Hatch, Heeschen, Heino, Hogle, Holt, Jacques, Jalbert, Johnson, Kontos, Lemke, Libby Jack, MacBride, Marsh, Martin, J.; Melendy, Mitchell, E.; Mitchell, J.; Nadeau, Nickerson, Norton, O'Gara, Oliver, Pendexter, Pfeiffer, Pinette, Plourde, Rand, Richardson, Robichaud, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Spear, Stevens, A.; Stevens, K.; Sullivan, Tardy, Taylor, Townsend, E.; Townsend, L.; Tracy, Treat, True, Vigue, Walker, Wentworth.

NAY - Adams, Ahearne, Aikman, Aliberti, Anderson, Ault, Barth, Bennett, Birney, Bruno, Cameron, Campbell, Carr, Carroll, Cashman, Cathcart, Clement, Clukey, Coffman, Dexter, DiPietro, Donnelly, Erwin, Farnsworth, Farnum, Farren, Fitzpatrick, Foss, Gamache, Gould, R. A.; Gray, Greenlaw, Hichborn, Hussey, Joseph, Joy, Kilkelly, Kneeland, Larrivee, Lemont, Libby James, Lindahl, Look, Lord, Marshall, Michael, Michaud, Morrison, Murphy, Nash, Ott, Pendleton, Pineau, Plowman, Poulin, Pouliot, Reed, G.; Reed, W.; Ricker, Rotondi, Simoneau, Skoglund, Small, Strout, Thompson, Townsend, G.; Tufts, Whitcomb, Winn, Young, Zirnkilton.

ABSENT - Beam, Hillock, Kerr, Ketterer, Kutasi, Lipman, Martin, H.; Swazey, The Speaker.

PAIRED - Paradis, (Yea)/ Cloutier (Nay).

Yes, 69; No, 71; Absent, 9; Paired, 2; Excused, 0.

69 having voted in the affirmative and 71 in the negative, with 9 being absent and 2 paired, the

Minority "Ought Not to Pass" Report was not accepted.

Subsequently, the Majority "Ought to Pass" Report was accepted. The Bill read once. Committee Amendment "A" (H-849) was read by the Clerk.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: As those of us here approach that part of the hill from which we watch the sun set, our eyesight fades and I can't read even the large print provided for us upon these excellent pages from the House staff. Mr. Speaker, I present House Amendment "A" (H-976) to Committee Amendment "A" (H-849) and move its adoption.

Representative ADAMS of Portland presented House Amendment "A" (H-976) to Committee Amendment "A" (H-849) which was read by the Clerk.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: To speak briefly to the amendment just presented, it would merely say that should all things proceed to the point where the island does receive the opportunity in fact to vote then that the cost of printing the ballots for that election must be born by the body that has thus far gathered the material and presented the case, that is the Peaks Island Research Committee, they must bear the cost of printing the ballots and making sure that the municipality shall bear no cost in that regard. To the best knowledge we know that is about \$60 for the several hundred ballots that shall be required. That is what the amendment just presented to you would do and that is what it would require.

Subsequently, House Amendment "A" (H-976) to Committee Amendment "A" (H-849) was adopted.

Committee Amendment "A" (H-849) as amended by House Amendment "A" (H-976) 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" (H-849) as amended by House Amendment "A" (H-976) thereto and sent up for concurrence. Ordered sent forthwith.

Bill "An Act to Strengthen the Coordinated Delivery of Substance Abuse Services in the State" (S.P. 655) (L.D. 1824) (C. "A" S-508)

- In Senate, Minority "Ought to Pass" as amended Report of the Committee on Human Resources read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (S-509).

TABLED - March 31, 1994 by Representative GEAN of Alfred.

PENDING - Adoption of Committee Amendment "A" (S-508) as amended by House Amendment "A" (H-1016) thereto.

On motion of Representative PARADIS of Augusta, tabled pending adoption of Committee Amendment "A" (S-508) as amended by House Amendment "A" (H-1016) thereto and later today assigned.

An Act to Make Statutory Changes to Implement the Recommendations of the Legislature's Total Quality

Management Committee (EMERGENCY) (H.P. 1083) (L.D. 1449) (C. "A" H-951)  
 TABLED - March 31, 1994 by Representative PARADIS of Augusta.  
 PENDING - Passage to be Enacted. (Roll Call Requested)

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

SENATE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (S-565) - Committee on Appropriations and Financial Affairs reporting on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 to Expand and Improve the State's Distance Learning Infrastructure" (S.P. 717) (L.D. 1939) (Governor's Bill)  
 TABLED - April 1, 1994 (Till Later Today) by Representative CHONKO of Topsham.  
 PENDING - Motion of same Representative to accept Majority "Ought Not to Pass" Report.

On motion of Representative PARADIS of Augusta, tabled pending the motion of Representative CHONKO of Topsham to accept the Majority "Ought Not to Pass" Report and later today assigned.

HOUSE DIVIDED REPORT - Report "A" (6) "Ought to Pass" pursuant to Joint Order H.P. 1416 on Bill "An Act Authorizing a Tribally Owned Casino in the City of Calais" (H.P. 1470) (L.D. 1998)  
 - Report "B" (4) "Ought Not to Pass" pursuant to Joint Order H.P. 1416  
 - Report "C" (2) "Ought to Pass" pursuant to Joint Order H.P. 1416 on Bill "An Act Authorizing a Tribally Owned Casino in the City of Calais" (H.P. 1471) (L.D. 1999)  
 - Report "D" (1) "Ought to Pass" pursuant to Joint Order H.P. 1416 on Bill "An Act Authorizing a Tribally Owned Casino in the City of Calais" (EMERGENCY) (H.P. 1472) (L.D. 2000) - Committee on Judiciary  
 TABLED - April 1, 1994 (Till Later Today) by Representative JACQUES of Waterville.  
 PENDING - Acceptance of Any Report.

On motion of Representative PARADIS of Augusta, tabled pending acceptance of any Report and later today assigned.

An Act to Revise the Laws of Maine to Incorporate the Office of Rehabilitation Services within the Department of Education (EMERGENCY) (H.P. 1431) (L.D. 1956) (Governor's Bill) (C. "A" H-909)  
 TABLED - April 1, 1994 (Till Later Today) by Representative JACQUES of Waterville.  
 PENDING - Passage to be Enacted.

Subsequently, this being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and 0 against and accordingly

the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

Resolve, Establishing the Commission to Study Biotechnology and Genetic Engineering (EMERGENCY) (H.P. 1015) (L.D. 1361) (S. "B" S-554 to C. "A" H-877)  
 TABLED - April 1, 1994 (Till Later Today) by Representative JACQUES of Waterville.  
 PENDING - Final Passage.

On motion of Representative MELENDY of Rockland, under suspension of the rules, the House reconsidered its action whereby L.D. 1361 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-877) was adopted.

The same Representative presented House Amendment "A" (H-1058) to Committee Amendment "A" (H-877) which was read by the Clerk and adopted.

Committee Amendment "A" (H-877) as amended by House Amendment "A" (H-1058) and Senate Amendment "B" (S-554) thereto was adopted.

The Resolve was passed to be engrossed as amended by Committee Amendment "A" (H-877) as amended by House Amendment "A" (H-1058) and Senate Amendment "B" (S-554) thereto in non-concurrence and sent up for concurrence. Ordered sent forthwith.

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Somerset County for the Year 1994 (EMERGENCY) (MANDATE) (H.P. 1462) (L.D. 1988)  
 TABLED - April 1, 1994 (Till Later Today) by Representative JACQUES of Waterville.  
 PENDING - Final Passage.

On motion of Representative PARADIS of Augusta, tabled pending final passage and later today assigned.

An Act to Establish the Maine School of Science and Mathematics and the Task Force on the Maine School of Visual and Performing Arts (S.P. 733) (L.D. 1958) (Governor's Bill) (C. "A" S-511)  
 TABLED - April 1, 1994 (Till Later Today) by Representative JACQUES of Waterville.  
 PENDING - Passage to be Enacted.

On motion of Representative MITCHELL of Vassalboro, under suspension of the rules, the House reconsidered its action whereby L.D. 1958 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-511) was adopted.

The same Representative presented House Amendment "A" (H-1054) to Committee Amendment "A" (S-511) which was read by the Clerk.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: After the bill left our committee we learned we had made a mistake in making a teacher of the school a voting member of the board and there was a legal question raised about that issue. So, the teacher from the school would be a non-voting member of the board.

There was also a question about how we define geographical ballots. We have simply offered a better definition of what it means to have geographical ballots. That is what this amendment does and I urge its adoption.

Subsequently, House Amendment "A" (H-1054) to Committee Amendment "A" (S-511) was adopted.

Committee Amendment "A" (S-511) as amended by House Amendment "A" (H-1054) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-511) as amended by House Amendment "A" (H-1054) thereto in non-concurrence and sent up for concurrence.

An Act to Authorize a Department of Inland Fisheries and Wildlife Bond Issue of \$10,000,000 for Fish Hatcheries (BOND ISSUE) (H.P. 1301) (L.D. 1756) (C. "A" H-962)

TABLED - April 1, 1994 by Representative KILKELLY of Wiscasset.

PENDING - Motion of same Representative to reconsider Passage to be Enacted.

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative KILKELLY of Wiscasset to reconsider passage to be enacted and later today assigned.

An Act to Authorize a General Fund Bond Issue in the Amount of \$9,000,000 to Construct Water Pollution Control Facilities and to Investigate, Abate, Clean up and Mitigate Threats to the Public Health and Environment from Uncontrolled Hazardous Substances Sites (BOND ISSUE) (H.P. 1392) (L.D. 1890) (Governor's Bill) (C. "A" H-963)

TABLED - April 1, 1994 by Representative KILKELLY of Wiscasset.

PENDING - Motion of same Representative to reconsider Passage to be Enacted.

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative KILKELLY of Wiscasset to reconsider passage to be enacted and later today assigned.

An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 for the Remediation and Capping of Municipal Solid Waste Landfills (BOND ISSUE) (S.P. 696) (L.D. 1894) (Governor's Bill) (C. "A" S-535)

TABLED - April 1, 1994 by Representative KILKELLY of Wiscasset.

PENDING - Motion of same Representative to reconsider Passage to be Enacted.

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative KILKELLY

of Wiscasset to reconsider passage to be enacted and later today assigned.

An Act to Authorize a General Fund Bond Issue in the Amount of \$2,000,000 for Safety Improvements at the Baxter School for the Deaf (BOND ISSUE) (S.P. 700) (L.D. 1898) (Governor's Bill) (C. "A" S-538)

TABLED - April 1, 1994 by Representative KILKELLY of Wiscasset.

PENDING - Motion of same Representative to reconsider Passage to be Enacted.

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative KILKELLY of Wiscasset to reconsider passage to be enacted and later today assigned.

Bill "An Act to Implement the Recommendations of the Commission to Study the Future of Maine's Courts" (H.P. 1008) (L.D. 1354)

- In House, passed to be engrossed as amended by Committee Amendment "A" (H-1000) as amended by House Amendment "A" (H-1015) thereto on April 1, 1994.

- In Senate, passed to be engrossed as amended by Committee Amendment "A" (H-1000) in non-concurrence.

TABLED - April 5, 1994 (Till Later Today) by Representative COTE of Auburn.

PENDING - Further Consideration.

Representative OTT of York moved that the House Recede and Concur.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Mr. Speaker, Ladies and Gentlemen of the House: This bill was before us last week and an amendment was placed on the bill that sent it out with the abolition of the Administrative Court.

I have moved to recede and concur because I want you to understand that the bill, as it came out of committee, was the result of over two years of work by the Commission to Study the Future of Maine's Courts. It was a commission that was instituted by this body in the 114th Legislature and it has, by several accounts, been the most comprehensive study of the court system since Maine derived its statehood.

The recommendations of the commission which are embodied in this bill are designed to provide the flexibility and resources necessary to provide a court system that will be responsive to all of the people of Maine, not only now but into the 21st Century.

The amendment that was proposed (stripped off the abolishment of the Administrative Court), was not a recommendation by the commission. In fact, in the committee, as the bill was presented, we then voted to abolish (by a vote of 12 to 1) the Administrative Court. That decision did not come about lightly. The recommendations from the commission included some 70 members, 29 of which were statutory appointments. There were members of the public, there were people who were in the legal profession, legislators and a whole host of commission members who spent, for the most part, their daily lives working the judicial system. There were representatives from the Family

Law section of the Maine State Bar Association, the State Court Administrators Office, Superior Court, District Court, the Administrative Court itself, Pine Tree Legal Assistance, the Judiciary Committee, the Maine Trial Lawyers Association, the Taxation Committee, the District Attorney's Office, the Attorney General's Office, people who work daily with our court system. One of their guiding beacons was the voice of the public — it was probably the most important aspect or component to the planning and operation of the judicial system.

There were eight areas of focus that the Commission had worked on in the two years that they were in existence. The first one was the public voice and consumer focus. To achieve that, one of those areas of concern was to look at the structure and jurisdiction of the court system and how to best utilize the resources we had to deliver the best possible services to the people of this state. One of those was the consideration of how we allocate the judicial resources. It seemed to the commission as well as to those who were addressing the committee and the committee itself that the elimination of the Administrative Court would be a step forward to the efficient use of these resources.

The Administrative Court basically handled 350 filings last year. From 1992 that was a decrease of some 26 percent. There are two judges who sit on that Administrative Court and if you mathematically divide that out each had a caseload of some 175 cases, not considered a very heavy caseload if you look at what cases are handled by not only the Superior Court but the District Court as well. We have 16 judges in the Superior Court who handled in 1993 and has been the average for the last several years about 18,000 cases. In the District Court we handled about 232,000 cases and those are divided between 26 District Court judges. I think you can see that when you factor that out the caseload of those judges as compared to those sitting on the Administrative Court.

The benefits of eliminating the Administrative Court would allow the judiciary to take those two judges and spread them out either between the District Court and Superior Court to help with the caseload. The 328 cases that were considered by the Administrative Court are mostly those that arrive out of the Bureau of Liquor Enforcement petitions and we have been assured in committee by the Chief Justice of the Maine Supreme Court that there would be assigned to those cases members of the District Court bench or the Superior Court bench who would be well versed with the expertise necessary to process those petitions.

With the elimination of this court and the addition of those two judges who sit on that court would be allowed to use time that they were not otherwise involved in cases on the Bureau of Liquor Enforcement was a good administration of judicial resources. It allowed our court system to operate more efficiently.

The Administrative Court certainly was a good idea when we implemented the creation of that court but that was perhaps when the judicial department had more financial resources.

An exclusive court for 350 cases in my mind is not an efficient way to serve the needs of all of our citizens. These numbers, or the cases that I have mentioned to you, involve important matters of protection from abuse, protective custody, general

civil cases, small claims cases, protection from harassment, mental health, juvenile cases, all those are people who are in our court system that need fast efficient administration of justice. Let's not detract from that effort by limiting the caseload of 350 cases to two judges. Support the pending motion.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: Speaking as the Representative from Augusta only, and having been a former member of the Judiciary Committee, my name is on this L.D. 1354, for I had the honor and the pleasure of signing the Report on the Commission of the Future of Maine's Courts. I was appointed by the Speaker of the House in 1990 to be one of two Judiciary Committee members of the majority party to serve on the Commission.

"A funny thing happened on the way to the forum," a quote and often used expression of a popular movie of a few years ago. I was on the structure subcommittee and we had hearings across the state. It was not recommended, as the good Representative from York has just mentioned, that we abolish the Administrative Court. We had discussions about it but it was never recommended that we abolish the Administrative Court. We debate this from time to time, statistics are brought forward to this body that we ought to abolish the Administrative Court. We have made reforms that have taken care of just about every problem that has every been associated with "Administrative Court." If we abolish the court I don't believe that we are going to be user friendly because I don't want to see my small grocer go to District Court to have a problem resolved about his license. I don't want him to sit there with a robber or burglar, arsonist or whatever. I don't think that is the forum for my small grocer who has a problem with his liquor license or someone that has another problem of an administrative nature not a criminal nature.

We passed legislation several years ago and it was widened as recently as 1990, if I am not mistaken, that says if at any time the Chief Judge of the Administrative Court and the Associate Judge of the Administrative Court has finished his or her docket they can be assigned by the Chief Justice of the Superior Court to sit in the Superior Court or the Chief Judge of the District Court to sit in the District Court and they do that.

Former Judge Dana Cleaves, he retired just a few months ago, used to sit constantly in Cumberland County Superior Court on all kinds of motions.

I can assure you they don't have ample time on their hands and go home at one o'clock in the afternoon and you don't see them until the next month, that impression should never be given.

We have excellent judges sit in the Administrative Court and many times they are nominated by the Governor to sit as members of the Judiciary in the Superior Court or the District Court. We even have legislation, ladies and gentlemen, (at the request of the court) two years ago to have District Court judges sit in Superior Court if there is a need. No one is saying we ought to get rid of some District Court judges because they are not being utilized in certain areas of the state.

I think we need to defeat this motion to recede and concur and I shall move that we insist and ask for a committee of conference. Let's iron out this



difference, this was not part of the Commission on the Future of Maine's Courts recommendation. We had hearings for three years around this state and studies. I was on the structure committee. It is like trying to abolish the Probate Court. It is not very user friendly. There are no problems. We have some major problems in the last three or four days of this legislature — abolishing the Administrative Court is not going to solve one of them.

I urge you to defeat this motion.

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

Representative COTE: Mr. Speaker, Ladies and Gentlemen of the House: I hate to differ from Representative Paradis, the former Chair of Judiciary, but the Commission did make a recommendation to abolish the Administrative Court.

This legislature charged the Commission to study the future of Maine's courts with making recommendations to assure access for all citizens for a responsible and efficient judicial system. The Commission was to address current and future needs of the courts and how it should ideally look for implementation while keeping in mind that the court structure be designed to serve the interests of the public and not any particular group of judges or lawyers and will be as simple as possible.

In the past there have been discussions concerning the value and structure of the Administrative Courts. The Commission's recommendation reflects the consensus that the current work load of the Administrative Court does not justify its continued existence as a separate entity.

At the present time Administrative Court judges spend the majority of their time hearing Superior and District Court matters, especially family law disputes. Their work has been indispensable in those courts and those judges have provided substantial staffing for the family law project.

The small number of two Administrative law cases could easily be subsumed into the caseload of other courts. Merging the Administrative Court into the District Court and the Superior Court would be a cost effective measure. Having a separate Administrative Court does not give the judicial system the flexibility it needs to respond to the legal needs of the people of Maine. The Chief Justice feels that there are some restrictions now in how he can assign judges in the Administrative Court to handle other cases in the courts when the Administrative Court is not busy. That is the reason why the Commission recommended the abolition of the Administrative Court. The Commission is seeking the most cost efficient court system. The Future Courts Commission studied these issues for two years. In order to realize greater economy in the future we believe L.D. 1354 is such a step.

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

Representative KERR: Mr. Speaker, Men and Women of the House: The Administrative Court, I look at it as a business court. It was established in the 1970's to hear licensing matters. At the present time (by statute) over 45 agencies who are licensed are assigned to the Administrative Court if found in violation and these remain in statute today. If these agencies that have these violation were heard before the Administrative Court it could reduce the work load in the District Courts.

As the good Representative from York said, at the present time only liquor enforcement is the only license that is utilizing this court and I believe that is wrong. The legislation in the past wanted these license matters to be heard in the Administrative Court and that is the message we should send to those agencies today.

The Administrative Court is a very efficient operation and should be a model for other courts to look at.

I further think that the cost savings to the state by utilizing this court could be overwhelming in time and manpower not to even speak of witness fees which are saved through a very efficient consent decree method.

As you all know I am a small business person. I do have a liquor license and I have, unfortunately, — none of us like to have to appear before the Administrative Court and when we do I can only tell you that I don't need to have an attorney by my side and the issue can be resolved in a mere day. We all remember the court case in Portland where there was a licensee that was in violation and the appeal process went to the District Court, the issue took almost a year to resolve. The Administrative Court is a business court. The most efficient way to run the court system is by keeping the Administrative Court in tact.

I would just like to read, if I may, the Majority Report. On page 16, number 9, it says, "the Chief Justice of the Maine Supreme Court shall develop a plan to implement a centralized filing and docketing system in District Court and Superior court for cases that would have been within the jurisdiction of the Administrative Court before its abolishment. The plan must provide for assignment of judges and justices to make maximum use of availability, expertise and resources in order to process cases in a manner providing as close to the same level of services provided by the Administrative Court before January 1, 1995."

I think the Chief Justices agree that it is going to be pretty hard to meet the efficiencies that we now have in the Administrative Court. The problem is that this is turned out to be a lawyers bill and that is the unfortunate thing. These judges that are working the Administrative Court now, and have always been able to, take cases in District Court and Superior Court. That is done right now. What the Chief Justice is looking for is he wants to tell rather than ask the Administrative Court justices what cases to take.

We talk about businesses in this state, I would urge you all to remember that back in 1970 or early 1970's our predecessors designed this court system to help businesses. It is effective, it is efficient, what else do you need? Why make this change?

I would also urge you to defeat the pending motion so we can insist and ask for a committee of conference because this needs to be resolved.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Mr. Speaker, Men and Women of the House: I rise again to urge your acceptance and approval of the pending motion and not to refer this thing. I think the decision can be made right now.

I wish to point out just a remark of clarification on whether or not it was the specific recommendation of the Commission that this court be abolished. I think some of the confusion resulted from



Representative Paradis's indication that it may not have been the recommendation. It was admittedly not a part of the original bill but it was very definitely a recommendation (as Representative Cote has stated) of the Commission. It was a 130 page report on "A New Dimension for Maine Justice" that was published by this Commission. I suggest to you that there were eight areas of focus and the fifth one was very definitely the structure and jurisdiction of the court system. There were 11 recommendations to achieve that goal and the fourth one was the abolishment of the Administrative Court. For those of you who have the report I commend it to your referral. Please support the pending motion.

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

Representative FAIRCLOTH: Mr. Speaker, Colleagues of the House: My friend, Representative Kerr, mentioned the other day he would be taking this position. I think it is a legitimate point, I think reasonable people can differ on this issue.

Representative Kerr mentioned that he thought that this should be a business court and that it is a business court. I think to some extent that is correct.

He wants them to get fast service and I also share that view, I would love to have fast service for all people in the court system.

Representative Paradis mentioned that he didn't think that these people necessarily should have to go in and sit in District Court with the criminals who were being arraigned for their criminal conduct.

However, what that is essentially saying is analogizing this to dedicated revenues, that we have a dedicated court for a certain type of function. That is not necessarily bad, people can have different philosophies about that but on the other hand I take the view that if you, let's say, a low-income single parent, they have to go in and sit with the criminals. If you are a low-income single parent and you are struggling to get child support payments for example, you have to go through the District Court process in most cases and it can be very tough on you and you may have to suffer the general delays of our court system. So, yes, our court system has problems, it has delays. But, my view is that everyone, everyone, whether you are a low-income person, a business person, everyone should have an equal footing in the court system and what we really need to do is work more to have a reformed court system overall and speedier service overall rather than necessarily have dedicated courts for different varying purposes. Certainly, a low-income person who is trying to get service in a civil case in District Court you deserve as much or more speed in dealing with your issue than someone who is in a business, not because I have anything against the business but I think they all should be treated equally and I think that is part of the concept here. I think reasonable people can differ but I think it is better to have a more comprehensive system that takes everyone in together and treats them equally.

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

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: I would like to clarify that it is my understanding that the reason our committee felt comfortable with making this change, even though

I think people are very respectful and concerned as well as people here about serving the business community speedily and efficiently on these things is that the Chief Justice himself told us that he would make sure that these matters were given priority and would make sure that there was adequate arrangements made within the court structure to handle these cases.

We have asked the judicial branch to make-do with not enough, we have given them not enough staff, they have one of the heaviest caseloads in the entire country. We have heard about that from two previous Chief Justices and they are a separate branch of government. I think if we set the standard and we say to them we expect business people to get reasonably prompt efficient service and, we expect it to be not a change from what they are getting now but, we respect the fact that you (as a court) have only a limited number of resources and we will let you allocate them. Then, I think what we are doing in this bill is to respect the third branch of government and letting them manage their resources as best they can.

I would worry, also, about the local grocer or somebody who has to deal with a liquor license going in and having to wait in a huge long line in a crowded docket. I believe that in the same way that if divorces and other kinds of things and child protective matters are all heard on separate days at separate times with scheduling taking care of how people wait and where they go, I think that I am willing to trust the Chief Justice who I think has shown himself extraordinarily flexible and creative (in how he is managing the system) to try to make the entire system more responsive for everybody.

I don't believe that the business community will be hurt by this or I wouldn't have supported it. I think that this is the one time that the Judiciary Committee and the courts have come to this body asking for flexibility to allow them to save money and we said no, we want to spend more money and we don't believe you can do it. I think that is a mistake.

I hope that this body will recede and concur and give the judicial branch the chance to save money and, at the same time, maintain services.

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

Representative MARTIN: Mr. Speaker, Members of the House: I agree with the Representative from York, Representative Ott, that we ought to dispose of it today. However, I don't believe that to recede and concur is the way but that to adhere would make it clear that our position that we took last time remains in effect.

With all due respect to the members of the Judiciary Committee and to the judiciary I must tell you what you will expect and you will get when you get home after we enact this piece of legislation with the Administrative Court taken out. It is very simple, for anyone who has any business at all that goes to district court right now to deal with people, for example, who have a bounced check, you know how many times you have to go, you know how many times you are in there, not once, not twice, but at least three times. If you are a business person you have to go into that courtroom before subpoenas are issued, before the process begins, etcetera.

What you are doing now is, as you all know, that the Administrative Court deals primarily with people who have liquor licenses, store owners, restaurants,

hotels, motels. What is going to have to happen is these managers or owners are going to be in the courtroom over and over again for the same violation as they are postponed. Efficiency of the District Court has not yet demonstrated that it can handle the question of bounced checks. Can you now imagine what is going to happen with liquor violations?

I just forewarn you the number of times that you are going to get complaints if this passes. So you need to make a decision today, I think, that if you get the complaints and you vote for it you have to know what the results are going to be after the fact. It seems to me that the one thing at this point that the Administrative Court does (and does well) is that it deals with the question and then people go on with their business. It seems to me that it is the wrong approach.

I concur that in fact there is a cost but that is not the issue before us now because, in part, what they are doing is making the judge, as I understand it, a Superior Court judge if this passes. So, what are we doing?

Also, I would finally close with this remark, that I suspect what is going to happen is that the little known rule which prevents individuals from going to court even to represent their corporations if they are not an owner, you may remember that debate from a couple of years ago, that you have got to hire an attorney. I tried to get that law changed so that persons who were actually representing a corporation either as a treasurer or manager could go in and take care of their own overweight fines, for example. That is a violation of the law because only attorney's can do that. What happens now? What does that do to the private business owner who is trying to earn a living?

With all due respect to the Judiciary and the Judiciary Committee, the proper position for us to take today is to adhere and to kill the motion to recede and concur.

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

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I don't think I am going to change anybody's mind about how you are going to vote on this issue but I just want to tell you as a businessman and as a licensee of several licenses I think it is a wonderful thing that we can go before the Administrative Court and not have to go in and spend a morning like I did a couple of years ago. I spent two mornings waiting for a judge to hear my case and every time I got to the judge, it came my turn to be facing the judge, we recessed. I spent three days waiting for one ruling that violated my property and then found out that the man had no assets and lost out. Three days work — plus, I had to take care of my own repairs. I am saying to you, please keep the Administrative Court, regardless what it costs us, it is worth it.

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

A vote of the House was taken.

Representative OTT of York requested a roll call on his motion to Recede and Concur.

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

ROLL CALL NO. 317

YEA - Aikman, Ault, Birney, Brennan, Caron, Cathcart, Chase, Cote, Cross, Faircloth, Farnsworth, Fitzpatrick, Foss, Holt, Joy, Ketterer, Kilkelly, Kneeland, Kontos, MacBride, Melendy, Nash, Ott, Pendexter, Plowman, Rand, Reed, W.; Rowe, Saxl, Small, Taylor, Thompson, Townsend, E.; Townsend, L.; Treat, Tufts, Walker, Wentworth, Whitcomb, Young, Zirkilton.

NAY - Ahearne, Aliberti, Anderson, Bailey, R.; Barth, Bennett, Bowers, Bruno, Cameron, Campbell, Carleton, Carr, Carroll, Cashman, Chonko, Clark, Clement, Clukey, Coffman, Constantine, Daggett, Dexter, DiPietro, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Farnum, Farren, Gamache, Gean, Gould, R. A.; Greenlaw, Hale, Hatch, Heeschen, Heino, Hichborn, Hوجلund, Hussey, Jacques, Johnson, Joseph, Kerr, Larrivee, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Look, Lord, Marshall, Michael, Michaud, Mitchell, J.; Morrison, Murphy, Nadeau, Nickerson, Norton, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Plourde, Poulin, Pouliot, Reed, G.; Richardson, Ricker, Robichaud, Rotondi, Ruhlin, Rydell, Saint Onge, Simonds, Simoneau, Skوجلund, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Tardy, Townsend, G.; Tracy, True, Winn, The Speaker.

ABSENT - Adams, Bailey, H.; Beam, Cloutier, Coles, Gray, Hillock, Jalbert, Kutasi, Lipman, Marsh, Martin, H.; Martin, J.; Mitchell, E.; Pendleton, Vigue.

Yes, 41; No, 94; Absent, 16; Paired, 0; Excused, 0. 41 having voted in the affirmative and 94 in the negative, with 16 being absent, the motion to Recede and Concur did not prevail.

Subsequently, the House voted to Adhere.

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Representative Martin of Eagle Lake was granted unanimous consent to address the House.

Representative MARTIN: Mr. Speaker, my light was not on and obviously if I had been recorded on that vote I would have been recorded as voting no.

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Subsequently, L.D. 1354 was ordered sent forthwith to the Senate.

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Representative Mitchell of Vassalboro was granted unanimous consent to address the House:

Representative MITCHELL: Mr. Speaker, had I been recorded on the previous Roll Call concerning

Administrative Courts I would have been voting in the negative and I would appreciate as being recorded as such.

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The House recessed until 2:00 p.m.

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(After Recess)

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

**REPORTS OF COMMITTEES**

**Ought to Pass as Amended**

Representative KNEELAND from the Committee on **Agriculture** on Bill "An Act Regarding the Inspection of Maine Potatoes" (H.P. 1273) (L.D. 1717) reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-1059)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-1059) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-1059) and sent up for concurrence.

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**CONSENT CALENDAR**

**First Day**

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

(H.P. 1473) (L.D. 2001) Bill "An Act to Establish a Catastrophic Health Expense Program" (Governor's Bill) Committee on **Taxation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-1061)

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objections, the Bill was passed to be engrossed as amended and sent up for concurrence.

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**BILLS IN THE SECOND READING**

Resolve, Authorizing the Examination of School Finance and Taxation Proposals (S.P. 776) (L.D. 2003) (Governor's Bill)

Was reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Paper was Passed to be Engrossed in concurrence.

**ENACTORS**

**Emergency Mandate**

An Act to Revise the Salaries of Certain County Officers (H.P. 1476) (L.D. 2004)

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. 103 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.

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An Act to Permit Collection of Public Assistance Overpayments by Administrative Process (S.P. 471) (L.D. 1463) (Governor's Bill) (H. "A" H-1027 to C. "A" S-532)

An Act to Ensure Quality Psychological Services (S.P. 580) (L.D. 1624) (H. "A" H-1022 to C. "A" S-504)

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

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By unanimous consent, all matters having been acted upon were ordered sent forthwith.

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**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

Bill "An Act to Authorize Applied Technology Regions to Borrow Funds for Necessary Repairs to Existing Buildings" (H.P. 1479) (L.D. 2005) (Presented by Representative WHITCOMB of Waldo) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Under suspension of the rules, and without reference to a Committee the Bill was read twice, passed to be engrossed, sent up for concurrence and ordered sent forthwith.

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**MATTERS PENDING RULING**

The SPEAKER: The Chair will now rule on four matters that were tabled in the House pending ruling of the Chair.

The Chair has had under consideration L.D. 1891, L.D. 1912, L.D. 1933, and L.D. 1893 relative to a request for a ruling by the Representative from Waterville, Representative Joseph, as to the applicability of Joint Rule 37.

Joint rule 37 reads as follows: "No measure which has been introduced and finally rejected in any regular or special session shall be introduced in any subsequent regular or special session of the same Legislature except by vote of two-thirds of both Houses."

The Chair is aware that all four of these pieces of legislation have been introduced by the Chief Executive. The two sections of the State Constitution that provide for the introduction of legislation by the Executive are as follows:

ARTICLE IV, PART THIRD, SECTION 1..."that the business of the second regular session of the Legislature shall be limited to" (among other items) "legislation in the Governor's call"...

ARTICLE V, PART FIRST, SECTION 9 says, "The Governor shall from time to time give the Legislature information on the condition of the State, and recommend to their consideration such measures, as the Governor may judge expedient."

The Constitution also provides in: ARTICLE IV, PART THIRD, SECTION 4, that "Each House may determine the rules of its proceedings"...

The Chair has researched rulings of his predecessors and cannot locate a case on direct point to this situation before us.

The Chief Executive of this state has traditionally been afforded a great deal of latitude by this institution for the purposes of introducing his or her legislation agenda. The Chief Executive has been traditionally granted an exemption to cloture rules even though that exemption is not expressly granted in the State Constitution. I do not disagree with that exemption. It is, however, not appropriate to waive all rules that this body is governed by when considering the Executive's Legislative agenda. The Executive can always propose, but the Legislature must always dispose of legislation under its constitutionally granted authority to "determine the rules of its own proceedings."

On point and with specific reference to these four bills, the First Regular Session of the 116th Legislature dealt with no less than seven pieces of legislation that address the subject matter contained in L.D. 1891, L.D. 1912, L.D. 1933 and L.D. 1893. L.D.'s 551, 698, 743, 1032, 1255, 1292 and 1296 are substantially the same as the four bills submitted by the Executive.

Though these bills are substantially the same as the items rejected in a previous session, it is at best unclear to the Chair, as to the applicability of Joint Rule 37 to bills that are sponsored by the Executive. To quote a ruling of the Chair of March 29, 1984

"After reviewing the rulings, the principles appear to be applied as follows: First, that Rule 37 has been narrowly construed to allow the greatest possible consideration of legislation by the Legislature, and to limit procedural blocks to that consideration. In simple terms, the Chair has ruled that it has followed the principle that if there is doubt concerning the question, then the bill should be admitted."

There is doubt in the Chair's mind. Therefore, it is the opinion of the Chair and I hereby rule that the provisions of Joint Rule 37 do not apply to these four bills in question.

The Chair would take this opportunity to suggest that this Legislature should review its rules to

clarify this rule at some point in the future. The Chair believes that Joint Rule 37 should clearly state if it applies to measures submitted by the Executive.

The Chair would therefore lay before the House L.D. 1891.

RESOLUTION, Proposing an Amendment to the Constitution of Maine Providing for the Direct Election of the Secretary of State (H.P. 1394) (L.D. 1891) (Governor's Bill)

(Committee on State and Local Government suggested)  
TABLED - February 18, 1994 by Speaker GWADOSKY of Fairfield.

PENDING - Ruling of the Chair.

The SPEAKER: It is the opinion of the Chair and I hereby rule that the provisions of Joint Rule 37 do not apply to L.D. 1891.

Subsequently, the pending question is reference. Representative JOSEPH of Waterville moved that the Resolution be indefinitely postponed.

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

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: I am proud to be the prime sponsor of this measure and I would encourage the House to vote against the pending motion of indefinite postponement so we could go on as we did with a similar (not exactly the same but similar) measure last year and follow the lead that we created there and vote a positive vote on this bill.

I have been proud to sponsor this legislation this year, similar legislation last year, similar legislation a couple of years before that and, in fact, come to the legislature when I was an ordinary citizen and advocate for the popular election of the Secretary of State.

I am pleased with the opportunity to come before this legislature one last time and ask for your consideration of this measure.

I will be brief.

You will recall that last year both the State and Local Government Committee and this House voted favorably on a similar measure to have the Secretary of State popularly elected. Let me recap the points that the House considered and the State and Local Government Committee considered when we looked at this issue then.

When this country was founded it was common practice to have indirect elections; to have the legislature, for instance, elect the United States Senators, as well as many other positions such as these Constitutional Officers. It wasn't until the progressive movement in the early 1900's when that practice became out of vogue, we went to the direct election of the U.S. Senators and, most other states (after around 1860) did turn to the current model of having these positions directly elected or, in some cases, in fewer cases actually, have Constitutional Officers like the Attorney General and the Secretary of State appointed by the Governor.

This bill would call for the popular election of the Secretary of State and, in so doing, it follows a large number of other states. The Secretary of State is currently elected by the public in 36 states. In just eight states the Secretary of State is appointed by the Governor. Only the Legislatures in Maine, New Hampshire and Tennessee choose their respective Secretary of States by the Legislature. Utah, Alaska

and Hawaii have no Secretary of State.

I think there are good reasons that many other states have sought to broaden accountability to this position because, by far, the most significant argument for this bill and for this practice of electing popularly the Secretary of State is not the history albeit it speaks for this bill or what other states are doing. It is the fact that only through popular election can we have the improved accountability that is imperative for an effective, credible, Secretary of State.

The Secretary of State, as we all know, serving as legislators, as we all know, the Secretary of State often has to rule on matters which pertain to the legislature or to individual legislators or, as we all know, to legislative candidates. This position ought to be above reproach and we have been fortunate that we haven't had a lot of serious problems regarding the Secretary of State, although there have been questions raised in recent months and recent years about the Secretary of State. We have been very fortunate that this has not impeded the ability of the person who is serving in that position to do his job. But, if anything, we have been warned by events that it could happen, that we could have a problem in this area. I think that we should take this opportunity to improve the accountability of that office and ensure credibility, integrity for in perpetuity by amending the Constitution.

There is no more appropriate time than this year to deal with this matter and to send this issue to the people for their consideration. It is a Constitutional Amendment and will require the peoples consideration. This November the people will be electing a new Legislature and a new Governor. It is time for a change and it is a time for overdue reform measures such as this one to be debated publicly and voted by the people.

It is my hope that if we do this we can go a long way to help restore the faith and the trust that is so desperately needed for the people and their government for this government to work.

I encourage you to vote against the pending motion of indefinite postponement so we can go on as we did and have done in previous years to support this concept.

Mr. Speaker, I request the yeas and nays.

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

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

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

Representative ZIRKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I will not try to delay this too much longer. It was a year ago when many of these same points were made by my colleague, Representative Bennett, and myself. The hour was late, I believe; the month was June or so. I will just remind you that it was back in 1988 when I, in fact, was a candidate for Secretary of State myself, against then the yet to be Secretary of State Bill Diamond. It was a process that, as I told you before, I suffered from no illusions of what the

eventual outcome will be. When you are your party's nominee and your party is in the minority in both the House and Senate there can be very little question about what the outcome will be when the process is chosen in that manner.

You have been told that we are one of only three states in this country to choose the Secretary of State in this manner. Years ago the members of this body used to choose our U.S. Senators but then in an effort to make them more accountable to the people for whom they are responsible we subjected them to general election as well.

The part that I think is most relevant in this case is the fact that the Secretary of State is responsible for the elections process by which all of us are sent here to represent our constituencies and that to me is enough to make that individual (he or she) accountable to all the people of Maine and not just the members of one party or another.

I hope that if for no other reason than to assure that there not be questions, right or wrong, that there just not be question about the process, that we can go ahead and make sure that accountability is going to be the issue as we go forward.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I, too, urge rejection of the motion before us so we can go on and pass this measure as we did last year, or, one very similar to it. Pass it as was recommended by the present Secretary of State, by the Secretary of States' Commission that looked at matters that were of great concern to us a year ago and, I think rightfully wanted to remove the elements of suspicion that were surrounding that office, his office, and it appears that someone else might have that position at some other time.

I think those of you in the minority and majority party both have to gain from this measure. (It is not hard to tell that someone other than just the Speaker was here until two o'clock this morning.) The matter before us is one of great concern to two individuals in this body who are running for another office. It tells you how being in that position can lead to suspicion. As recently as last week a matter of petitions filed from people in this body seeking gubernatorial nominations — in one party, petitions that did not qualify were allowed to go through. In another party, petitions that were done exactly the same were ruled upon exactly the opposite.

I don't think the Secretary of State needs to be put in a position where they are subjected to suspicions by members of either political party. I think that this would just simply remove the presence of potential partisan conflict and allow, as we all say we want to do, the people to vote for high political office, the people to make choices. So, I urge your rejection of the motion before us and to go on and accept this measure as we have before.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Joseph of Waterville that L.D. 1891 be indefinitely postpone. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 318

YEA - Adams, Ahearne, Aliberti, Caron, Carroll, Cathcart, Chonko, Clark, Clement, Coles, Constantine,

Daggett, DiPietro, Dore, Driscoll, Erwin, Faircloth, Gamache, Gean, Gould, R. A.; Hale, Hatch, Heeschen, Hichborn, Hوجلund, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Larrivee, Martin, J.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, O'Gara, Oliver, Paradis, P.; Pendleton, Pfeiffer, Pineau, Pinette, Plourde, Poulin, Pouliot, Rand, Richardson, Ricker, Rotondi, Rowe, Rydell, Simonds, Skوجلund, Stevens, K.; Strout, Sullivan, Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Walker, Winn, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bowers, Brennan, Bruno, Cameron, Campbell, Carleton, Carr, Chase, Clukey, Coffman, Cross, Dexter, Donnelly, Dutremble, L.; Farnsworth, Farnum, Farren, Foss, Gray, Greenlaw, Heino, Joy, Kneeland, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Michael, Murphy, Nash, Nickerson, Norton, Ott, Pendexter, Plowman, Reed, G.; Reed, W.; Robichaud, Saxl, Simoneau, Small, Spear, Stevens, A.; Taylor, Thompson, Tracy, Treat, True, Tufts, Vigue, Wentworth, Whitcomb, Young, Zirkilton.

ABSENT - Beam, Cashman, Cloutier, Cote, Fitzpatrick, Hillock, Kutasi, Martin, H.; Nadeau, Ruhlín, Saint Onge, Tardy.

Yes, 70; No, 69; Absent, 12; Paired, 0; Excused, 0.

70 having voted in the affirmative and 69 in the negative, with 12 being absent, the Resolution was indefinitely postponed and sent up for concurrence. Ordered sent forthwith.

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require That the Attorney General Be Appointed by the Governor (H.P. 1403) (L.D. 1912) (Governor's Bill) (Committee on State and Local Government suggested) TABLED - February 18, 1994 by Speaker GWADOSKY of Fairfield. PENDING - Ruling of the Chair.

The SPEAKER: It is the opinion of the Chair and I hereby rule that the provisions of Joint Rule 37 do not apply to L.D. 1912.

Subsequently, the pending question is reference.

Representative JOSEPH of Waterville moved that the Resolution be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Mr. Speaker, Men and Women of the House: This is another proposal that is part of the Governor's package for good government reforms. This proposal is a Constitutional Amendment to change the process of selecting the Attorney General so that the post is appointed by the Governor subject to confirmation by the Legislature. If this measure were approved the Constitutional question would be on the November ballot and the first Attorney General appointed by the Governor would then follow the 1998 election.

Maine is the only state which elects its Attorney General by the legislature itself. There are other states - in fact the majority of them, some 43 in fact, elect the Attorney General but it is by popular election. Five other states have a similar method as is being proposed here and that be that those state, the Attorney General is appointed by the Governor. One state, Tennessee, appoints its Attorney General

by the Supreme Court.

If you look at the concept of our government with the three branches having a balance of power and seeing that we now elect the Attorney General from our branch of the Government it seems to me that we set up an inherent conflict here where the Attorney General, who is supposed to be the Governor's lawyer because most of the work done by the Attorney General is for the Executive Branch, we have a situation where the boss or the client is really in fact the legislature where it should be the Governor's office.

If this resolve were accepted it is my understanding that the Governor's office would set up a process that would allow the creation of an office where attorneys that would be devoted to the work for the legislature. As it stands now we almost create a situation where if a conflict arises and a policy issue has to be resolved by the Attorney General and it is a question being posed by the legislative branch the Attorney General then works for the legislature, the Executive branch is then forced to hire independent council outside which, on many occasions, has run into considerable expense. Having an appointment by the Governor's office would certainly provide, I think, for a more fluid form of administering those problems that arise where legal council is required.

This Resolution is an effort to move the state forward with good government reform. We have talked about that in the past and we talk about it sometimes back home. We have an opportunity here, I think, to make a positive statement. This Legislature, the 116th, that it is prepared to act on what it talks about as good government reform. I ask that you defeat the pending motion to indefinitely postpone this resolve.

Representative BENNETT of Norway requested a roll call on the motion to indefinitely postpone the Resolution.

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 Joseph of Waterville that this Resolution be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 319

YEA - Adams, Ahearne, Aliberti, Bowers, Brennan, Bruno, Cameron, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Coffman, Coles, Constantine, Cote, Daggett, DiPietro, Dore, Driscoll, Dutremble, L.; Erwin, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Hale, Hatch, Heeschen, Heino, Hichborn, Hوجلund, Holt, Hussey, Jacques, Jalbert, Johnson, Kerr, Kilkelly, Kontos, Larrivee, Lemke, Lord, Martin, J.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Norton, O'Gara, Oliver, Paradis, P.; Pendleton, Pfeiffer, Pineau, Pinette, Plourde, Poulin, Pouliot, Rand, Richardson, Ricker, Rotondi, Rowe, Rydell, Saxl, Simonds, Skوجلund, Spear,

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

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Campbell, Carleton, Carr, Clukey, Cross, Dexter, Donnelly, Faircloth, Farnum, Farren, Foss, Greenlaw, Joy, Ketterer, Kneeland, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, MacBride, Marsh, Marshall, Michael, Nash, Nickerson, Ott, Pendexter, Plowman, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Stevens, A.; Taylor, Thompson, True, Tufts, Whitcomb, Young, Zirkilton.

ABSENT - Beam, Cloutier, Hillock, Kutasi, Martin, H.; Ruhlin, Saint Onge, Tardy, Treat.

Yes, 91; No, 51; Absent, 9; Paired, 0; Excused, 0.

91 having voted in the affirmative and 51 in the negative, with 9 being absent, the Resolution was indefinitely postponed and sent up for concurrence. Ordered sent forthwith.

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the Maine Legislature (H.P. 1419) (L.D. 1933) (Governor's Bill) (Committee on State and Local Government suggested) TABLED - February 24, 1994 by Speaker GWADOSKY of Fairfield.  
PENDING - Ruling of the Chair.

The SPEAKER: It is the opinion of the Chair and I hereby rule that the provisions of Joint Rule 37 do not apply to L.D. 1933.

Subsequently, the pending question is reference.

Representative JOSEPH of Waterville moved that the Resolution be indefinitely postponed.

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

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: I'm some surprised that I am standing up on this particular measure. Again, this is our opportunity to go on Record and let the public see where we stand in reducing the size of the legislature.

In 1840 we had the same size legislature with no television, no radio, no cars, no computers. Now we can do with less. We have asked our people in the State of Maine to do with less. We have had to cut the budget, we have had to cut programs, yet the legislative budget and the size of the legislature has not changed. The cost for the legislature in 1981 was \$4 million. The cost for the legislative budget today is around \$13 million. What can we accomplish by reducing the size of the legislature to 99 in the House and 33 in the Senate? One, we will have symmetry. We will have three representatives from each senatorial district. The advantage of doing that is that if a legislators wants to run for the other body then they are within the same senatorial district and we don't have some of the confusion that we have encountered recently.

A second advantage to a reduced size of the legislature is that we can reduce cost and it has been estimated at about \$2 million a year.

The third advantage is that we wouldn't have as many people to speak on each bill and then we wouldn't have to be here as late and the sessions wouldn't be as long. The committee sizes could be reduced.

To be a little more serious and to address the

point, I would like to draw an analogy or ask us to look at Indiana. Indiana has a population of 5.5 million people, Maine has 1.2 million. Indiana has 35,000 square miles, Maine has 30,000 square miles. Indiana has five times as many people, more land and they have a House of Representatives of 100 legislators. Indiana is able to get their business done by one session of 61 days and another session of 30 days. We would be able to reduce the time that we would have to be in session if we reduced the size of the legislature. This is an opportunity for us as legislators to give the public a chance to choose in the Constitutional referendum but also to say we have asked you to sacrifice, we have asked the state employees to sacrifice, we have had to cut programs and we are even willing to allow you the opportunity to reduce the size of the legislature. I ask you to vote against the motion and, I request the yeas and nays.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: This legislation promises cost savings and increased efficiency. In fact it would yield neither and there are studies and studies and experience and experience which demonstrates this point. It would create a legislature which is in fact less representative and requiring more staff and more cost and more bureaucracy.

The basic problems is not size and it never has been size. The real problem is how we do the people's business and real substantive change must be systemic not cosmetic.

One other point, obviously this plan, which has been before us before would be detrimental to a rural representation. As the Lottery motto goes, "Just Imagine" — close your eyes and just imagine 52 less people in here, what part of the State of Maine would be devastated by that? You know the answer to that my friends.

The proposal does not recognize the historic and cultural tradition of the State of Maine. You are being asked in the name of cost savings and efficiency to sacrifice democracy. Maybe we can cut budgets here but we shouldn't be cutting democracy here. It would be folly to support such dubious legislation and therefore reduce real democracy in the State of Maine. My friends, this is not real reform at all, it is not good government at all, it may be a good election year bill but it hardly is something you should support. I urge you to vote for indefinite postponement.

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 Chair recognizes the Representative from Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: Since I have been here for the three terms that I have served we have had proposals of this nature floating in front of us whether they be the first session or the second session. This is one that does cause me to rise to my feet and I am glad that I do, I am sorry if you



feel that I shouldn't.

The good Representative from Augusta, Representative Lipman, asked what we accomplished by having a smaller legislature. What we accomplish is we have larger districts, we have more money needed for campaigns, we have less representation for the people we represent and we have less representation from average Maine citizens like you and I in this House. You really narrow it down as to who in fact will serve in these bodies when it becomes a professional place to be.

What else do we accomplish? In the history books, as he said, way back in 1881 (I think was the year he used) we didn't have lobbies from out-of-state coming in to hound us in the halls. We didn't have non-partisan staff to the degree we do have today. We didn't have the technical-type issues that we have today.

You want to compare us to Indiana — I will compare us to Indiana, look at their laws and look at our laws. We are progressive, Maine has always been in the proud tradition of being leading in its legislation, not following. There is a reason for that, it takes time to do good quality work.

The argument he brought up on there are too many of us on the committees, I say to you I am thankful there are too many of us on the committees. Sitting on Banking and Insurance I would hate to have a committee of five or six people airing those serious interests, health care, insurance reform, banking regulations to be bounced off a very few minds instead of a good field of minds.

Ladies and gentlemen, this is not a frivolous vote, this is a very important vote. For a Citizens Legislature we must be big and we must be able to do our work in the time span we need to do it.

Please vote for indefinite postponement of this measure.

The SPEAKER: A Roll Call has been ordered. The pending question before the House is the motion of Representative Joseph of Waterville that this Resolution be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 320

YEA - Adams, Ahearne, Aliberti, Anderson, Bailey, H.; Bailey, R.; Bowers, Brennan, Cameron, Carroll, Cashman, Cathart, Chase, Chonko, Clark, Clement, Coffman, Coles, Constantine, Cote, Daggett, Dexter, Donnelly, Dore, Driscoll, Erwin, Farnsworth, Farren, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Hale, Hatch, Heeschen, Hichborn, Hوجلund, Holt, Jacques, Jalbert, Johnson, Joseph, Ketterer, Kilkelly, Kneeland, Kontos, Larrivee, Lemke, Lemont, Libby Jack, Libby James, Look, Lord, MacBride, Marsh, Martin, J.; Melendy, Michaud, Mitchell, J.; Morrison, Murphy, Nadeau, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Poulin, Pouliot, Rand, Ricker, Robichaud, Rotondi, Rowe, Rydell, Saint Onge, Saxl, Skوجلund, Spear, Stevens, K.; Strout, Sullivan, Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, True, Tufts, Vigue, Walker, Wentworth, Winn, The Speaker.

NAY - Aikman, Ault, Barth, Bennett, Birney, Bruno, Campbell, Carleton, Caron, Carr, Clukey, Cross, DiPietro, Dutremble, L.; Faircloth, Farnum, Foss, Greenlaw, Heino, Hussey, Joy, Kerr, Lindahl, Lipman, Michael, Mitchell, E.; Nash, Nickerson, Ott, Pendexter, Pendleton, Plourde, Plowman, Reed, G.;

Reed, W.; Richardson, Simoneau, Small, Stevens, A.; Tardy, Taylor, Thompson, Whitcomb, Young, Zirkilton.

ABSENT - Beam, Cloutier, Hillock, Kutasi, Marshall, Martin, H.; Norton, Ruhlin, Simonds.

Yes, 97; No, 45; Absent, 9; Paired, 0; Excused, 0.

97 having voted in the affirmative and 45 in the negative, with 9 being absent, the Resolution was indefinitely postponed and sent up for concurrence. Ordered sent forthwith.

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 23, 1994 by Speaker GWADOSKY of Fairfield.

PENDING - Ruling of the Chair.

The SPEAKER: It is the opinion of the Chair and I hereby rule that the provisions of Joint Rule 37 do not apply to L.D. 1893.

Subsequently, the pending question is reference.

On motion of Representative JOSEPH of Waterville, the Resolution was indefinitely postponed and sent up for concurrence. Ordered sent forthwith.

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.

Bill "An Act to Separate Cushings Island in Casco Bay from the City of Portland and to Create the Cushings Island Village Corporation as Part of the Town of Long Island" (S.P. 454) (L.D. 1421)

TABLED - April 5, 1994 (Till Later Today) by Representative JOSEPH of Waterville.

PENDING - Passage to be Engrossed.

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

Representative JOSEPH: Mr. Speaker, I move that this bill and all accompanying papers be indefinitely postpone and I wish to speak to that motion.

Mr. Speaker, Men and Women of the House: I indefinitely postponed L.D. 1421 because there will be another bill coming to you, "An Act to Establish Procedures for Secession and Annexation" which replaces this bill which was found to be not germane with the title that you are now looking at.

Subsequently, on motion of Representative JOSEPH of Waterville, the Bill and all accompanying papers were indefinitely postponed and sent up for concurrence.

An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 for Training Equipment for the Maine Technical College System (BOND ISSUE) (H.P. 1442) (L.D. 1968) (C. "A" H-970)



TABLED - April 5, 1994 (Till Later Today) by Representative JACQUES of Waterville.  
 PENDING - Passage to be Enacted.

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

Resolve, Authorizing Aroostook County to Issue Bonds for the Northern Maine Development Commission, Inc. (EMERGENCY) (S.P. 772) (L.D. 1992) (Governor's Bill)  
 TABLED - April 5, 1994 (Till Later Today) by Representative JACQUES of Waterville.  
 PENDING - Final Passage.

Subsequently, this being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 108 voted in favor of the same and 0 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

An Act to Amend the Laws Governing the Required Qualifications to Practice Law in the State (H.P. 1153) (L.D. 1552) (C. "B" H-957)  
 TABLED - April 5, 1994 (Till Later Today) by Representative JACQUES of Waterville.  
 PENDING - Passage to be Enacted.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

An Act to Clarify the Licensing Authority of the Department of Public Safety (S.P. 614) (L.D. 1712) (H. "A" H-933 to C. "A" S-518)  
 TABLED - April 5, 1994 (Till Later Today) by Representative JACQUES of Waterville.  
 PENDING - Passage to be Enacted.

On motion of Representative DAGGETT of Augusta, under suspension of the rules, the House reconsidered its action whereby L.D. 1712 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-518) was adopted.

The same Representative presented House Amendment "B" (H-1056) to Committee Amendment "A" (S-518) which was read by the Clerk and adopted.

Committee Amendment "A" (S-518) as amended by House Amendments "A" (H-933) and "B" (H-1056) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-518) as amended by House Amendments "A" (H-933) and "B" (H-1056) thereto in non-concurrence and sent up for concurrence. Ordered sent forthwith.

An Act to Increase the Jurisdiction of the Loring Development Authority of Maine (H.P. 1275) (L.D. 1723) (C. "A" H-974)  
 TABLED - April 5, 1994 (Till Later Today) by Representative JACQUES of Waterville.  
 PENDING - Passage to be Enacted.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

An Act to Establish a Technical College in York County (H.P. 1313) (L.D. 1775) (H. "A" H-989 to C. "A" H-851)  
 TABLED - April 5, 1994 (Till Later Today) by Representative COLES of Harpswell.  
 PENDING - Passage to be Enacted. (Roll Call Ordered)

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

ROLL CALL NO. 321

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

MAY - Gray, Kilkelly, Poulin.

ABSENT - Beam, Cameron, Cathcart, Cloutier, DiPietro, Faircloth, Hillock, Kutasi, Lord, Martin, H.; Saxl, Simoneau, Tardy.

Yes, 135; No, 3; Absent, 13; Paired, 0; Excused, 0. 135 having voted in the affirmative and 3 in the negative, with 13 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Representative Saxl of Bangor was granted unanimous consent to address the House.

Representative SAXL: Mr. Speaker, my vote was not

recorded on the last vote, I wish to be recorded as ye.

An Act Regarding Access to Chiropractic Services (H.P. 1461) (L.D. 1986) (H. "A" H-998)  
 TABLED - April 5, 1994 (Till Later Today) by Representative JACQUES of Waterville.  
 PENDING - Passage to be Enacted.

On motion of Representative PINEAU of Jay, under suspension of the rules, the House reconsidered its action whereby L.D. 1986 was passed to be engrossed.

The same Representative presented House Amendment "B" (H-1023) which was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendments "A" (H-998) and "B" (H-1023) in non-concurrence and sent up for concurrence. Ordered sent forthwith.

Bill "An Act to Increase Access to Primary Care by Redefining the Practice of Advanced Nursing" (S.P. 390) (L.D. 1185)

- In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-454) as amended by Senate Amendment "B" (S-513) thereto.

TABLED - April 5, 1994 (Till Later Today) by Representative JACQUES of Waterville.  
 PENDING - Adoption of Committee Amendment "A" (S-454) as amended by Senate Amendment "B" (S-513) thereto.

On motion of Representative HOGLUND of Portland, tabled pending adoption of Committee Amendment "A" (S-454) as amended by Senate Amendment "B" (S-513) thereto and specially assigned for Thursday, April 7, 1994.

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

Bill "An Act to Rejuvenate the Lobster Population in the Gulf of Maine" (H.P. 1262) (L.D. 1689) which was tabled by Representative HEINO of Boothbay pending the motion of Representative MITCHELL of Freeport that the House Adhere.

-In House passed to be engrossed as amended by Committee Amendment "A" (H-973) as amended by House Amendment "A" (H-1017) thereto.

-In Senate passed to be engrossed as amended by Committee Amendment "A" (H-973) as amended by House Amendment "A" (H-1017) and Senate Amendment "A" (S-576) thereto in non-concurrence.

Representative DONNELLY of Presque Isle moved that the House Recede and Concur.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I hope you won't recede and concur on the issue and that you will adhere.

The first thing that we should understand when we talk about fisheries is that fisheries are a public resource and they belong to all the people of the

state and they are available for all the people of the state to take if they get a license and comply with the rules.

The difference between the House and the Senate on this particular issue is the question of limited entry in the lobster fishery. Senate Amendment "B" puts a moratorium on issuing lobster licenses for a year. The moratorium would go into effect when the bill became law and would last until July 1st of 1995. I don't know what it is going to accomplish except that it is going to cost a lot of confusion and it is going to establish a limited entry in a fishery where there is no need for a limited entry.

Some lobstermen came to our committee and they said that they felt that they needed a limited entry because the ground fishery is in such poor condition they thought that ground fishermen who could no longer fish in that fishery would buy lobster licenses and become lobstermen and the competition for lobstermen would become tougher.

No one ever came to the committee as they did in the urchin issue with the biological argument that if we don't stop fishing the lobsters they are going to disappear. In fact, it would seem that just the opposite is true. The lobster industry is very healthy. People are making a lot of money fishing for lobster. I can tell you that a number of lobstermen have told me they just got through talking with their accountants because their taxes are due and their accountants are telling them to go out and buy new boats. People are getting less per pound but the lobster catch is up so if the supply is up, the price usually goes down and that is the problem.

The amendment that is before you that distinguishes these two bills, Senate Amendment "A" would put this moratorium in effect. It is there to protect lobstermen, it is not there to protect lobsters at all. In fact you can go and pass this amendment and I don't think that you are going to save one single lobster for the future. Not only that, but, there are no other conservation measurers put into effect at this time to save the lobster fishery.

I could perhaps go along with the limited entry personally if there was something else being done like a trap limit being put into effect because I feel we need a trap limit.

This is basically unfair. An example of what could happen if you recede and concur and do not adhere is that you could have two people who live on the coast, one person could have a lobster license and their next door neighbor won't have a lobster license. Well, the person who has a lobster license is going to have this moratorium without any restrictions on how they fish so they can go out and put in another 1,000 traps. So, if they have 1,000 traps now they could have 2,000 traps where as the neighbor who doesn't have a license isn't going to be allowed in that fishery at all. It just seems to me that it is very very unfair especially when the problem in the fishery seems to be that there are too many traps and they are just cluttering the bottom.

I would ask you to defeat the motion to recede and concur and then adhere.

Remember the fisheries are a public resource, they belong to all the people. Everyone should have access to them.

Those of you who live in and represent districts who aren't on the coast have constituents, they have just as much right to go to the coast and fish for

lobster as people who live in Freeport or Eastport or St. George or wherever. The fishery is open to everyone and this is really a pretty dramatic step to take and there is not reason to take it at all, the fishery isn't in trouble and it is only there to protect these lobstermen to create a monopoly and protect them from competition. I ask you to defeat the motion and adhere.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lemont.

Representative LEMONT: Mr. Speaker, Ladies and Gentlemen of the House: In order to understand the intent of this amendment I feel it is important to understand the big picture. The federal government, through their biologists at Woods Hole have determined the lobster fisheries in the Gulf of Maine to have a 20 percent too high mortality rate. What has come as a result of this conclusion is Amendment 5 to the Fisheries Management Plan which I am sure you have all probably heard about due to the ground fish problems. This amendment also deals with lobsters. If this amendment is passed May 18th the amendment sets up the effort management teams which will be made up of biologists, scientists and fishermen up and down the coast of Maine. Their work, when completed will come forward with recommendations to address this problem. Their recommendations are due in six months.

The amendment before us does two things, it requires the commission to report on the 15th of January 1995 to the Joint Standing Committee on Marine Resources with a recommendation on reduction of the mortality rate by 20 percent and actions the state should take.

It also institutes a moratorium on lobster licenses until July 1st of 1995. This amendment creating a moratorium would create breathing room on the fisheries and allow the EMT's, the logbook and the Commissioner to do his job. I hope you support the motion.

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

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: This doesn't close out the ability for anybody to get a license. If somebody up in Millinocket wants to go into the lobster business, come on down, you are open until July 1, make your decision, buy a boat, get your traps in the water.

This is a first step. Now, if you think that it is easy for 13 people on a fisheries committee and all the fishermen up and down the coast to get together and make an agreement that is going to satisfy everybody then you will believe in Easter Bunnies. It is very difficult. This is a compromise, it is a first step, it is not a cure-all — it is a one year moratorium. It leaves the door open for anyone that want's to get in.

Now, so far as people on the coast, don't for a minute think that people on the coast won't get their license if they so desire. And, don't think some little boy or little girl who wants to fish for lobster is going to be deprived of that. No way. Those children already have their licenses that that is going to be taken care of.

Someone in the United States, whether it be our fishermen, our committee or the Maine residents or the people of New England, someone thinks the fisheries are overfished. We don't know for sure. We need something of this nature though to slow down the fishing and sometime we are going to have to

reduce the fishing of that particular resource.

Yes, this is a public resource. This is primarily and basically why we are trying to make some of these rules and regulations to save it for everyone.

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

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I would also ask you to support the motion to recede and concur. As the good Representative said before me, it is very difficult to get the fishermen on the coast of Maine together on anything. Well, here is an example of it, especially my folks down east.

It has been stated, and I know it is thought by some that this is in a way just protecting our fisheries on a business sense. I will agree that is partly true.

Let me tell you some of the things that is coming down from the Feds, just take a couple of minutes of your time. First off, there was a big panic here the first of the year, we are overfished in Maine and terrible things are going to happen to the resource. They were telling us about this mythical cliff that we were going to fall off.

Well, I got to tell you, after listening to some of the hearing and getting some of the information, there was one piece of information that struck me probably more than anything else, they want us to reduce our catch by 15 percent and yet they want to turn around and increase the quota of the catch for the off-shore druggers. Now as of lately, the last few days, they said no, that is not true. Well, I will tell you what I think is going on and it is just my personal opinion but I have been on that committee for six years and I have attended these hearings. I think Maine has got the best lobster fishery in the country. I think Massachusetts, New Hampshire, the Federal government and other fisheries know that and I think this is an attack on our industry. I think they want to erode our market in order to increase theirs. This is not the committee's opinion, this is George Townsend's opinion, this is what I think is happening.

Some have said that this isn't going to work unless we have trap limits. Well, most of our fishermen down east only fish 600 or 800 traps anyway. It is a rare person that fishes 1,000. I will admit that in the Casco Bay area there is probably a problem there, there are folks that are fishing a couple thousand traps. But, let me tell you what I think is going to happen if you have a trap limit, let's say 1,000 trap limit, I think what is going to happen is that everyone that is fishing 600 and 800 traps is going to up their quota to 1,000. Why not, that is the limit, you might as well go right up to the top and do it. That is a red herring, that isn't going to produce any type of savings to the industry either.

The fact of the matter remains is the Federal Government has not proven that we are overfishing our fisheries. A lot of lobstermen will tell you that lobstering is very much like aquaculture, you feed the lobsters and they are coming there, the more you feed them, the more you are going to get. I am not a lobsterman, I can't attest to that exactly but that makes sense to me. I hear a lot of fishermen telling me that.

This right here will indeed protect Maine industry. It will protect these off-shore folks so these folks are going to be driven out of the other

fisheries that they have fished almost to death from going into lobstering. It is going to give us a year breather. It is not going to disallow anyone that is legitimately wanting to get into the business to lobster, not to move from something else. There is a time period here where you can get into this.

Lobster fishermen down east after this whole bill, after a number of hearings and many work sessions and all kinds of behind the scenes movements, they agree on three things. They agree on a one year moratorium. I think they would have even bought a two year but that is a moot point.

A logbook — because now the scientists are finally, I feel, willing to listen to the fishermen, something that they haven't done for years and years and years. I think if you want true information about the industry you are going to have to get it from the fishermen. The logbook should provide that and the scientists have made moves to lead us to believe that they are actually going to look at it this time.

The other thing is the Sundays on either end, which is a minor point and nobody has a problem with it.

My fishermen agree with the years moratorium and they agree with the logbook. I am going to follow their lead on this.

I have disagreed with my fishermen in the past as some of you know and if I disagree with them I won't make any bones about getting up and telling you so but here is an instance that I do agree with them. They know what they are talking about as far as overfishing. They know what they are talking about as to what is good for the industry and this is one time that they have got my full support. I would ask you for yours.

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

Representative FARREN: Mr. Speaker, Ladies and Gentlemen of the House: I have to tell you up-front that I am not a strong supporter of moratoriums. However, to say that no one has come in here and asked for any restrictions on the lobster industry this year is not quite right. The restrictions that they have suggested have been somewhat more than what the committee has come up with. While I do not look kindly upon moratoriums as a reoccurring thing I do think it is time that we do something that has been mentioned earlier and I have been a strong advocate of every since I have been on the Marine Resources Committee. We have got to listen to the people that are on the water every day. We need to give them time through the logbook to refute, if that is the case, that they are overfishing by 20 percent.

Some say that there are no conservation measures there, I guess I would have to disagree with that, although there are not a lot.

But, if we have the logbook, we have the moratorium, we won't find ourselves in the same position that some of the other fisheries are in at the present time. And, anyone wants to get into the industry and is serious about the industry then 90 days after the legislature adjourns is a mirror for them to get in. I don't think you are going to find too many people that are interested in investing \$50,000 or more in the industry if they are not serious about the lobster fishing.

I think another thing that we need to do and what seems to have gone astray here, we have got people

advocating a 20 percent overfishing. We have got people advocating that we need to have a trap limit. They are advocating a lot of things but one thing that they have not done is they have not communicated that. I am talking about the people at the federal level, have not come to the Marine Resources Committee, who has a responsibility for the Marine Resources in the State of Maine, nor have they involved more than two or three of the people who are fishing. I think that is a shame.

We have got people on the water that have fished for 40 and 50 years, probably know more about what is on the bottom than any of us will ever know and probably more than some of the biologists at Woods Hole will ever know. What we need to do is put their scientific abilities together with the fishermen and the committee that has a responsibility in the State of Maine and then we can begin to come up with something that will serve the need if there is a need.

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

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

Forgive me for not being able to follow all of the debate. A question to anyone who may care to answer, you have the 90 day period in which to choose to get a license. Earlier today this House passed (by a two to one margin) a franchise bill which would guarantee a survivorship to those dependents of existing businesses. What would happen if some years from now where we had a young man or woman who wanted to be able to take over their fathers lobster business? Would they be able to get a license? What would happen if somebody attempted to get one a few years from now or in six months?

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

The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: In response to the question, what would happen if you had to turn your fishing business over to your family because you could no longer fish? As I understand it and in the amendment before us in the Senate Amendment there is no provision for that. It is apt to make it harder for people to get out of the fishing business at all because if you are at the low end of the fishing business (and this passes) no one else is going to be able to get in, so, there is going to be no one to sell your boat or gear to who wants to get into the fisheries — if you want to get out next spring.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I would also like to address that. I would like to point out that this moratorium is only for one year so we can gather some information. Now, if that was to happen on a long-term basis then I would say that that is a very definite concern. The reason it is for a year so we can have the logbook so we can gather some information and then future Marine Resources Committees can make further decisions on the industry.

One of the reasons why I would not support a permanent moratorium at this time.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will support this compromise which the committee has come up with, with this amendment.

Over the years it has been said that the lobster industry was having a reduction in the amount fished. During this discussion of the lobster industry this year I sent out a questionnaire through an association that told me they sent out 200 questionnaires. This spread from the Penobscot River to Eastport. I got a 25 percent response on that which I understand is fairly good. What it asked was do they support a trap limit? How many traps do they fish?

What was interesting was to learn that in that area the majority of those fishermen only fished from around 600 traps.

However, at one of the hearings I was talking with one of the people that was there from the western end of the state and I asked him how many traps he fished and he said, "To make a living I have got to fish 3,000 to 4,000." Well, ladies and gentlemen, that told me that certainly (that quite probably) the western end of the state is being overfished.

What we have done with this bill is try to impose a temporary moratorium for one year so that through the use of logbooks and other information which the department will ask for, they can determine to what extent this is being overfished, if at all.

One thing that I must call to your attention is that over the last years the fishermen themselves have agreed to do the V-notch which is to punch the female lobsters to identify them and it is illegal to harvest those.

Also, the vent size has been increased to allow more lobsters to escape.

Third, the carapace size has been changed so that it reduces the reduction of the harvest.

By the same token the New England Fisheries Management has failed to enforce or to demand that the other two states, Massachusetts and New Hampshire, which are in Zone 1 of this area in New England, they have failed to impose those same restrictions or those same suggestions on those two states.

What we heard in committee was that many V-notched lobsters are being sold in the markets of those other two states which says what Maine is saving, the other states are selling. I think we are well on the way to doing our conservation program. I hope you will join us in this and perhaps then we might be more influential in getting wide-spread agreement among the three states in Zone 1.

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Constantine.

Representative CONSTANTINE: Mr. Speaker, Members of the House: I will be voting against the pending motion for two reasons, kind of old-fashioned reasons I guess. One is that I believe that a moratorium on licenses should be used only as a method of last resort and only for compelling public reasons. I have not, in hearing all the discussion over six years now, found that the reason to impose a moratorium has a compelling public reason right now.

The second reason is because it is my belief that once this moratorium goes into place it will be extremely difficult to have it removed. I also urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the

Representative from Gardiner, Representative Marsh.

Representative MARSH: Mr. Speaker, Ladies and Gentlemen of the House: I am not a lobster fisherman but it is on the Record here even though the Speaker last spring tried to gavel me down that I deal in the best lobsters in the world. I feel very strongly about the lobster industry and quite frankly I am very surprised at this debate.

As far as I am concerned Representative Mitchell is just exactly right.

Here in the last hours, the last days of the Legislature we are told that we have to make a 20 percent reduction. We are talking about a moratorium that in no way is going to guarantee a 20 percent reduction. No pun intended, it is just going to muddy the waters more. I think it is ill conceived and not very well thought out. I think it is just opening us up to a lot of criticism and not properly handling this problem.

We all know that there is a problem with the lobster industry in the State of Maine. There were two comprehensive bills brought in. I went up and I listened to the hearing and I listened to all of the testimony. Almost before I got back here those bills were killed and this is what we are offering up now in the last hours. I think it is very ill conceived. I think it creates more problems than perhaps it solves. In all due respect, there are those that think this is only on the books for one year, then probably there are a lot of people in here who believe in the Easter Bunny. If you stop and think of all the problems that have been brought out, how do you pass on a business after the 1st of July? How do you sell a business? What is it going to do to the market? I certainly urge you to follow the light of Representative Mitchell, I think he is absolutely right.

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

A vote of the House was taken.

Representative LEMONT of Kittery requested a roll call on the motion to Recede and Concur.

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 Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Men and Women of the House: I will be very brief. I want to just point out in addition to the sound arguments advanced by Representative Marsh, Constantine and Mitchell that this moratorium, because it allows people to buy a license between now and July 1, and buy it again after July 1, 1995, has no effect whatsoever. So, in fact to pass it will be to say we are doing something when we are not doing anything at all.

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

## ROLL CALL NO. 322

YEA - Anderson, Ault, Bailey, H.; Bailey, R.; Bennett, Birney, Bowers, Bruno, Cameron, Campbell, Carleton, Carr, Cathcart, Clukey, Coffman, Cross, Dexter, Donnelly, Driscoll, Farnum, Farren, Foss, Gray, Greenlaw, Heino, Joy, Kerr, Kneeland, Lemont, Libby Jack, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Melendy, Michael, Morrison, Nash, Nickerson, Norton, Ott, Pendexter, Plowman, Pouliot, Reed, W.; Robichaud, Ruhlin, Saint Onge, Simoneau, Skoglund, Spear, Thompson, Townsend, G.; Tufts, Whitcomb, Winn, Young, Zirnkilton.

NAY - Adams, Ahearne, Aliberti, Barth, Brennan, Caron, Carroll, Cashman, Chase, Chonko, Clark, Clement, Coles, Constantine, Cote, Daggett, DiPietro, Dore, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Hale, Hatch, Heeschen, Hichborn, Hogle, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Libby James, Marsh, Martin, J.; Michaud, Mitchell, E.; Mitchell, J.; Murphy, Nadeau, O'Gara, Oliver, Paradis, P.; Pendleton, Pfeiffer, Pinette, Plourde, Poulin, Rand, Reed, G.; Richardson, Ricker, Rotondi, Rowe, Rydell, Saxl, Simonds, Small, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Tardy, Taylor, Townsend, E.; Townsend, L.; Tracy, Treat, True, Vigue, Walker, Wentworth.

ABSENT - Aikman, Beam, Cloutier, Hillock, Kutasi, Martin, H.; Pineau, The Speaker.

Yes, 60; No, 83; Absent, 8; Paired, 0; Excused, 0.

60 having voted in the affirmative and 83 in the negative, with 8 being absent, the motion to Recede and Concur did not prevail.

Subsequently, the House voted to Adhere. Ordered sent forthwith.

HOUSE REPORT - "Ought to Pass" as amended by Committee Amendment "A" (H-969) - Committee on Legal Affairs on Bill "An Act to Amend the Laws Governing the Training and Certification of Law Enforcement Officers" (H.P. 828) (L.D. 1114) which was tabled by Representative DAGGETT of Augusta pending acceptance of the Committee Report.

Subsequently, the Committee Report was accepted. The Bill read once. Committee Amendment "A" (H-969) was read by the Clerk.

Representative DAGGETT of Augusta presented House Amendment "B" (H-1062) to Committee Amendment "A" (H-969) which was read by the Clerk and adopted.

Committee Amendment "A" (H-969) as amended by House Amendment "B" (H-1062) 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" (H-969) as amended by House Amendment "B" (H-1062) thereto and sent up for concurrence. Ordered sent forthwith.

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

## SENATE PAPERS

## Non-Concurrent Matter

Bill "An Act to Separate Peaks Island and Certain Other Islands in Casco Bay from the City of Portland" (EMERGENCY) (H.P. 1082) (L.D. 1448) on which the Majority "Ought to Pass" as amended Report of the Committee on State and Local Government was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-849) as amended by House Amendment "A" (H-976) thereto in the House on April 6, 1994.

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

Representative JOSEPH of Waterville moved that the House Adhere.

Representative DUTREMBLE of Biddeford moved that the House Recede and Concur.

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

A vote of the House was taken.

68 voted in favor of the same and 39 against, subsequently, the House voted to Recede and Concur.

## CONSENT CALENDAR

## First Day

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

(S.P. 728) (L.D. 1949) Bill "An Act to Establish Maine Quality Centers" (Governor's Bill) Committee on Housing & Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (S-579)

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objections, the Bill was passed to be engrossed as amended in concurrence. Ordered sent forthwith.

## SENATE PAPERS

## Non-Concurrent Matter

Resolve, to Establish a Commission on the Future of Maine's Paper Industry (EMERGENCY) (S.P. 773) (L.D. 1996) which was passed to be engrossed as amended by House Amendment "A" (H-1048) in the House on April 5, 1994.

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-1048) and Senate Amendment "A" (S-582) in non-concurrence.

The House voted to Recede and Concur. Ordered

sent forthwith.

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

An Act to Make Statutory Changes to Implement the Recommendations of the Legislature's Total Quality Management Committee (EMERGENCY) (H.P. 1083) (L.D. 1449) (C. "A" H-951) which was tabled by Representative LARRIVEE of Gorham pending passage to be enacted. (Roll Call Requested)

On motion of Representative LARRIVEE of Gorham, under suspension of the Rules, the House reconsidered its action whereby L.D. 1449 was passed to be engrossed.

The same Representative presented House Amendment "A" (H-1063) which was read by the Clerk and adopted.

Representative ZIRNKILTON of Mount Desert requested a roll call on passage to be engrossed as amended by Committee Amendment "A" (H-951) and House Amendment "A" (H-1063).

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of 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 is passage to be engrossed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 323

YEA - Adams, Aliberti, Beam, Bowers, Brennan, Cameron, Carroll, Cashman, Cathcart, Chase, Clement, Coles, Constantine, Daggett, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Hale, Hatch, Heesch, Hoglund, Holt, Jalbert, Johnson, Ketterer, Kilkelly, Kontos, Larrivee, Melendy, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, O'Gara, Paradis, P.; Pineau, Pinette, Poulin, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Saxl, Simonds, Stevens, K.; Townsend, E.; Townsend, G.; Treat, Walker, Wentworth, Winn, The Speaker.

NAY - Ahearne, Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Campbell, Carleton, Caron, Carr, Chonko, Clark, Clukey, Coffman, Cote, Cross, Dexter, DiPietro, Donnelly, Farnum, Farren, Foss, Gray, Greenlaw, Heino, Hichborn, Hussey, Jacques, Joseph, Joy, Kerr, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Look, Lord, MacBride, Marsh, Marshall, Martin, J.; Michael, Michaud, Murphy, Nash, Nickerson, Norton, Oliver, Ott, Pendexter, Pendleton, Pfeiffer, Plourde, Plowman, Pouliot, Rand, Reed, G.; Reed, W.; Robichaud, Rydell, Simoneau, Skoglund, Small, Spear, Stevens, A.; Strout, Sullivan, Swazey, Taylor, Thompson, Townsend, L.; Tracy, True, Tufts, Vigue, Young, Zirkilton.

ABSENT - Cloutier, Hillock, Kneeland, Kutasi, Lipman, Martin, H.; Saint Onge, Tardy, Whitcomb.

Yes, 60; No, 82; Absent, 9; Paired, 0; Excused, 0. 60 having voted in the affirmative and 82 in the

negative, with 9 being absent, the Bill failed passage to be engrossed in non-concurrence and sent up for concurrence.

The House recessed until 7:00 p.m.

(After Recess)

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Somerset County for the Year 1994 (EMERGENCY) (MANDATE) (H.P. 1462) (L.D. 1988) which was tabled by Representative PARADIS of Augusta pending final passage.

On motion of Representative ROTONDI of Athens, under suspension of the rules, the House reconsidered its action whereby L.D. 1988 was passed to be engrossed.

The same Representative presented House Amendment "B" (H-1060) which was read by the Clerk and adopted.

The Resolve was passed to be engrossed as amended by House Amendment "B" (H-1060) in non-concurrence and sent up for concurrence. Ordered sent forthwith.

An Act to Authorize a Department of Inland Fisheries and Wildlife Bond Issue of \$10,000,000 for Fish Hatcheries (BOND ISSUE) (H.P. 1301) (L.D. 1756) (C. "A" H-962) which was tabled by Representative JACQUES of Waterville pending the motion of Representative KILKELLY of Wiscasset to reconsider passage to be enacted.

Subsequently, the House voted to reconsider.

On motion of Representative KILKELLY of Wiscasset, under suspension of the rules, the House reconsidered its action whereby L.D. 1756 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-962) was adopted.

The same Representative presented House Amendment "A" (H-1037) to Committee Amendment "A" (H-962) which was read by the Clerk.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: This amendment merely changes the date in which this bond would be put out for vote and it would move it from June to November.

Representative CLARK of Millinocket requested a division on adoption of House Amendment "A" (H-1037) to Committee Amendment "A" (H-962).

The SPEAKER: The Chair will order a vote. The pending question is adoption of House Amendment "A" (H-1037) to Committee Amendment "A" (H-962). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative RUHLIN of Brewer requested a roll call on adoption of House Amendment "A" (H-1037) to



Committee Amendment "A" (H-962).

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of 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 Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Men and Women of the House: I think it should be brought to your attention that most of the fish hatcheries in the State of Maine work with what they call cold water species of fish, these are the members of the trout and salmon family and they routinely spawn or lay their eggs in the fall of the year and that is when the eggs are gathered and taken to the hatcheries. Then they are hatched out in the spring of the year. A lot of the stocking they do from those hatcheries, most of it is done again in the spring of the year. Once those fish mature they then take them and plant them in the lakes and streams and brooks of the State of Maine. The vast majority of them in April and May of the spring of the year so when the fish population is at its lowest is in the summer time at our fish hatcheries. The best time for construction of the hatcheries in the State of Maine because of our weather and because of that fish population being at the lowest is in the summer time. Therefore I am saying to you it makes no sense at all to delay a bond issue until November and then you are not even going to be able to fund it until December or January, a time of year when it really becomes economically not the wisest time of year to start your repairs to those hatcheries and do the necessary maintenance, also a time of year when the hatcheries are full of the young that will have to be released in April and May.

Let us use some good common sense here and put all the other issues aside and look at the time to fix those hatcheries is in July, August and September. If you pass a bond issue in June, hopefully, (I can't guarantee that) but hopefully that money will become available to you by late July or early August so you can do your construction period in the time that nature and our weather has allotted for us to do it most properly. I wish you would take that into consideration when you vote on this particular issue.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "A" (H-1037) to Committee Amendment "A" (H-962). Those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL NO. 324

YEA - Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Carleton, Caron, Carr, Clement, Clukey, Daggett, Dexter, DiPietro, Donnelly, Dutremble, L.; Farren, Foss, Gamache, Gould, R. A.; Greenlaw, Hatch, Heeschen, Hichborn, Holt, Hussey, Jacques, Joy, Ketterer, Kilkelly, Lemont, Libby Jack, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Melendy, Michael, Michaud, Mitchell, E.; Murphy, Nash, O'Gara, Oliver, Ott, Paradis, P.; Pendexter, Plourde, Plowman, Poulin, Pouliot, Rand, Reed, G.; Ricker, Rotondi, Saint Onge,

Simoneau, Small, Spear, Stevens, A.; Swazey, Tardy, Taylor, Thompson, Townsend, L.; True, Tufts, Vigue, Whitcomb, Winn, Young, Zirkilton.

NAY - Adams, Ahearne, Aikman, Beam, Bowers, Brennan, Bruno, Cameron, Campbell, Carroll, Chase, Chonko, Clark, Coffman, Coles, Constantine, Cote, Cross, Driscoll, Erwin, Faircloth, Farnum, Fitzpatrick, Gean, Gray, Hale, Hoglund, Jalbert, Johnson, Joseph, Kerr, Kneeland, Kontos, Larrivee, Lemke, Libby James, Martin, J.; Mitchell, J.; Morrison, Nickerson, Norton, Pendleton, Pfeiffer, Pineau, Robichaud, Rowe, Ruhlin, Rydell, Saxl, Skoglund, Stevens, K.; Strout, Sullivan, Townsend, E.; Townsend, G.; Tracy, Treat, Walker, Wentworth.

ABSENT - Cashman, Cathcart, Cloutier, Dore, Farnsworth, Heino, Hillock, Kutasi, Marsh, Martin, H.; Nadeau, Pinette, Reed, W.; Richardson, Simonds, The Speaker.

Yes, 76; No, 59; Absent, 16; Paired, 0; Excused, 0.

76 having voted in the affirmative and 59 in the negative, with 16 being absent, House Amendment "A" (H-1037) to Committee Amendment "A" (H-962) was adopted.

Committee Amendment "A" (H-962) as amended by House Amendment "A" (H-1037) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-962) as amended by House Amendment "A" (H-1037) thereto in non-concurrence and sent up for concurrence. Ordered sent forthwith.

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An Act to Authorize a General Fund Bond Issue in the Amount of \$9,000,000 to Construct Water Pollution Control Facilities and to Investigate, Abate, Clean up and Mitigate Threats to the Public Health and Environment from Uncontrolled Hazardous Substances Sites (BOND ISSUE) (H.P. 1392) (L.D. 1890) (Governor's Bill) (C. "A" H-963) which was tabled by Representative JACQUES of Waterville pending the motion of Representative KILKELLY of Wiscasset to reconsider passage to be enacted.

Subsequently, the House voted to reconsider.

On motion of Representative KILKELLY of Wiscasset, under suspension of the rules, the House reconsidered its action whereby L.D. 1890 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-963) was adopted.

The same Representative presented House Amendment "B" (H-1042) to Committee Amendment "A" (H-963) which was read by the Clerk.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: This amendment is similar to the amendment we just discussed on the last bond issue and again it would move the date of the vote from June until November.

Subsequently, House Amendment "B" (H-1042) to Committee Amendment "A" (H-963) thereto was adopted.

Representative MARTIN of Eagle Lake presented House Amendment "A" (H-1006) to Committee Amendment "A" (H-963) which was read by the Clerk.

The SPEAKER: The Chair recognizes the



Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Members of the House: I am sure that you no longer have that amendment around so let me briefly tell you what it does.

In the proposal which came forth from the Budget Office from the department through the appropriations process the amount was decreased. What this amendment basically does is to add money to the bond issue to take care of hazardous sites.

I would like to just tell you, since you obviously don't have the list of the communities that are affected. Most of them are communities that have left-over sites generated by companies that have since left town or where land has been reclaimed through the tax process and the responsibility now falls in the hands of the state rather than the hands of the people who perhaps owned the corporations.

I will take just a few minutes to go through them because I think it is important that either way you want to vote is entirely up to you but I want you to be aware of what it we are not doing if we do not do it.

We have an abandoned tannery in Acton. Lead contamination in a Brewer junk yard. The Peterson Farm Store in Woodland. The Eastland Woolen Mills in Corinna. The Vocational Center in Ellsworth. The Robins Center in Ellsworth. The compounds that are located at the Harris Road in Falmouth/Cumberland. Metal plating waste in Gorham. Coordinated compounds in Jay at Allen's Garage. In Meddybemps the Eastern Surplus site as well as the Green Hill site. In Paris the Wilner Wood Products. In Plymouth, Howes Corner waste oil. In Presque Isle at the Aroostook State Farm abandoned pesticides. In Saco at the Saco Tannery. In Sanford at the municipal landfill. In South Berwick, the Hooper Sands Road. In Waterboro, the Waterboro Pattern, industrial waste as well as the Southern Maine Finishing. In Wells the Portland/Bangor waste oil, in all three communities and in Winthrop, Seaway Boats. Those sites are the ones that are under consideration.

In addition, the amendment does two other things. It adds money to complete and match the federal dollars for Rangeley in order to make sure that the work is completed there. As well — and that is a million dollars and then \$300,000 for Soldier Pond to take care of the water along the Fish River. That is what is covered by this amendment.

I am not sure of the details of what the Appropriations Committee got but I thought it was appropriate when it was brought to my attention by the staff or members of DEP that that be made known.

I would ask for a roll call on adoption of House Amendment "A" to Committee Amendment "A."

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Chonko.

Representative CHONKO: Mr. Speaker, Men and Women of the House: I don't know what was in the bond before it appeared before Appropriations but what we have here is what the committee decided to put out. The issues that Representative Martin speaks of was brought up before the committee and it was turned down because we felt our package was quite large as it was to send out to the people. I would hope you would reject this amendment.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Taylor.

Representative TAYLOR: Mr. Speaker, Men and Women of the House: Clarification please? I show House

Amendment "A" to Committee Amendment "A" to be H.P. 1009 which has nothing on it that Representative Martin was speaking about.

The SPEAKER: House "A" to "A" is (H-1006).

The Chair recognizes the Representative from Sanford, Representative Carr.

Representative CARR: Mr. Speaker, I would pose a question through the Chair. My question is this list from the Representative from Eagle Lake all-inclusive, that there will not be any others added to it?

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

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

Representative MARTIN: Mr. Speaker, Members of the House: To respond to the question, no, it is not inclusive. Those are the sites which have been presently identified and are ready for work to begin. There are other sites in fact that are presently under review. There are some in the Sanford area that I know of as well as Bangor and those, at this point, to my knowledge haven't quite reached that stage.

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 Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, Members of the House: I didn't hear any amount of money that this amendment presented by Representative Martin was asking for. The amount for the list that he gave I think is around \$5 million, maybe it is more, maybe it is less but if they think they are going to do all that with \$5 million that is just a drop in the bucket.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: The Representative from Waterboro is absolutely correct, if he added it as I was reading them the figure is \$5 million.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "A" (H-1006) to Committee Amendment "A" (H-963). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 325

YEA - Adams, Ahearne, Anderson, Ault, Bailey, H.; Barth, Beam, Bowers, Brennan, Campbell, Carleton, Carr, Cathcart, Chase, Clark, Clement, Cloutier, Coles, Constantine, Cote, Donnelly, Driscoll, Erwin, Faircloth, Farnsworth, Farnum, Fitzpatrick, Gean, Gould, R. A.; Hale, Hatch, Heeschen, Hichborn, Hoglund, Holt, Jalbert, Johnson, Joseph, Ketterer, Kilkelly, Kneeland, Lemke, Libby Jack, Look, Lord, Marsh, Marshall, Martin, J.; Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Norton, Oliver, Pendleton, Pfeiffer, Poulin, Rand, Reed, W.; Rotondi, Ruhlman, Rydell, Saxl, Skoglund, Stevens, A.; Strout,

Sullivan, Swazey, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Treat, Tufts, Vigue, Wentworth.

**NAY** - Aikman, Aliberti, Bailey, R.; Bennett, Birney, Bruno, Cameron, Caron, Carroll, Chonko, Clukey, Cross, Daggett, Dexter, DiPietro, Dore, Dutremble, L.; Farren, Foss, Gamache, Gray, Greenlaw, Heino, Hussey, Jacques, Joy, Kerr, Kontos, Lemont, Libby James, Lindahl, Lipman, MacBride, Melendy, Michael, Nadeau, Nash, Nickerson, O'Gara, Ott, Paradis, P.; Pendexter, Pineau, Plourde, Plowman, Pouliot, Reed, G.; Ricker, Robichaud, Rowe, Saint Onge, Simonds, Simoneau, Small, Spear, Taylor, Thompson, Tracy, True, Walker, Whitcomb, Winn, Young, Zirkilton, The Speaker.

**ABSENT** - Cashman, Coffman, Hillock, Kutasi, Larrivee, Martin, H.; Pinette, Richardson, Stevens, K..

Yes, 77; No, 65; Absent, 9; Paired, 0; Excused, 0.

77 having voted in the affirmative and 65 in the negative, with 9 being absent, House Amendment "A" (H-1006) to Committee Amendment "A" (H-963) was adopted.

Committee Amendment "A" (H-963) as amended by House Amendment "A" (H-1006) and House Amendment "B" (H-1042) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-963) as amended by House Amendment "A" (H-1006) and House Amendment "B" (H-1042) thereto in non-concurrence and sent up for concurrence. Ordered sent forthwith.

An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 for the Remediation and Capping of Municipal Solid Waste Landfills (BOND ISSUE) (S.P. 696) (L.D. 1894) (Governor's Bill) (C. "A" S-535) which was tabled by Representative JACQUES of Waterville pending the motion of Representative KILKELLY of Wiscasset to reconsider passage to be enacted.

Subsequently, the House voted to Reconsider.

On motion of Representative KILKELLY of Wiscasset, under suspension of the rules, the House voted to reconsider its action whereby L. D. 1894 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-535) was adopted.

The same Representative presented House Amendment "B" (H-1043) to Committee Amendment "A" (S-535) which was read by the Clerk.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: Again, this amendment would require that this bond be out in November and not in June.

Subsequently, House Amendment "B" (H-1043) to Committee Amendment "A" (S-535) thereto was adopted.

Committee Amendment "A" (S-535) as amended by House Amendment "B" (H-1043) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-535) as amended by House Amendment "B" (H-1043) thereto in non-concurrence and sent up for concurrence. Ordered sent forthwith.

An Act to Authorize a General Fund Bond Issue in the Amount of \$2,000,000 for Safety Improvements at the Baxter School for the Deaf (BOND ISSUE) (S.P. 700) (L.D. 1898) (Governor's Bill) (C. "A" S-538) which was tabled by Representative JACQUES of Waterville pending the motion of Representative KILKELLY of Wiscasset to Reconsider passage to be enacted.

Representative KILKELLY of Wiscasset withdrew her motion to Reconsider.

Bill "An Act to Strengthen the Coordinated Delivery of Substance Abuse Services in the State" (S.P. 655) (L.D. 1824) (C. "A" S-508) which was tabled by Representative PARADIS of Augusta pending adoption of Committee Amendment "A" (S-508) as amended by House Amendment "A" (H-1016) thereto.

On motion of Representative GEAN of Alfred, under suspension of the rules, the House reconsidered its action whereby House Amendment "A" (H-1016) was adopted.

The same Representative moved House Amendment "A" (H-1016) be indefinitely postponed.

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

Representative GEAN: Mr. Speaker, Men and Women of the House: One week ago you remember we debated this bill regarding RFP's and substance abuse contracts and the House unanimously adopted the Majority Committee report to the tune of 104 to 31. We now have an amendment here, House Amendment "A" which basically guts the Majority Report. If this amendment were allowed to stay on the bill there would be exactly one RFP issued every six years in the State of Maine. Oddly enough, that one RFP would be that in Aroostook County. We therefore have nothing here except an attempt to kill the Majority amendment and I urge you to strongly oppose this and vote to indefinitely postpone this amendment.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: While it certainly could be someone's opinion that this amendment which I put on the bill earlier would gut the bill, I think that it addresses an issue that was brought up during the debate and that is if there is a region which has a contract of substance abuse monies so that that agency has a monopoly on those monies in that region that there would be a reason for that to go out to RFP. That is all that this amendment does and I hope that you will oppose the indefinite postponement.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I, too, would urge that you vote to indefinitely postpone this amendment. I believe this does gut the bill and, it basically treats different regions in the state differently which is not good public policy. We basically came out with a compromise which looked at exempting RFP's under a certain level of dollars. That policy would be applied consistently across the state. This

amendment basically gets rid of that and applies different standards in one part of the state versus another. Please vote to indefinitely postpone.

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

Representative MARTIN: Mr. Speaker, Members of the House: I must first thank the Representative from Augusta, Representative Daggett, in solving the problem in Aroostook County because obviously this is what this amendment would do. However, I think that it is fair that everyone be at bid, not only Aroostook County. So, I would also urge you to indefinitely postpone House Amendment "A."

The SPEAKER: The Chair will order a vote. The pending question is the motion of Representative Gean of Alfred that House Amendment "A" (H-1016) to Committee Amendment "A" (S-508) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

78 voted in favor of the same and 23 against, House Amendment "A" (H-1016) was indefinitely postponed.

Committee Amendment "A" (S-508) was adopted. The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-508) in non-concurrence and sent up for concurrence. Ordered sent forthwith.

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**HOUSE DIVIDED REPORT - Majority (7) "Ought to Pass" - Minority (6) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act to Impose Term Limits on Members of the United States Congress" (I.B. 2) (L.D. 1983) which was tabled by Representative PARADIS of Augusta pending acceptance of either Report.**

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

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I do oppose this measure. I feel that term limits at the congressional level is not a good move to make. It takes a while, I am sure we would all consider this, to get used to or in tune with the process that goes along with this. Probably few of us have been in Washington. I have been there but I certainly don't know the process. What I have observed from being there several times is that I think it would be very difficult to become effective there. Therefore I feel that for Maine to do this would be very wrong.

In the past we have been very fortunate to have people there who have gained prestige and have used it to the benefit of our state. Therefore, I oppose this move.

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

Representative MICHAEL: Mr. Speaker, Men and Women of the House: First of all, welcome to strange bedfellows time. It reminds me of the Grateful Dead line, "what a long strange trip it has been."

First of all I want to say that I fully respect whatever position people come down on today. I certainly respect the gentlelady from Jonesboro's position.

Let me just give you a little bit of background on where we sit. As you probably know the term limit

referendum now sits before us, we have the option of passing it today or sending it out to the voters. So, there are several people, some of which do not particularly support term limits, that have decided they would like to pass it now rather than have it on the ballot in the fall for whatever reason.

There are also people that support term limits that are voting against this including on the committee report, not because they oppose term limits but because they think it is a good idea to send it to the voters because that has been the tradition. So, this is one of those situations where you are on your own certainly. I don't know anybody whose light you can follow. So, it is one of those unusual situations.

I personally encourage us to pass this bill. And, as I said, if people here who support term limits feel they would like to vote no on this, send it out to the voters, we understand.

Certainly this is not a roll call that you can bring back home and prove anything with. Your stand on term limits has already been determined by the roll calls of the past couple or three years where you have already identified your position on term limits. The vote today is essentially, in my estimation, on whether or not we should pass this now or send it out to the voters.

I would like to describe briefly why I think we should pass it now. First of all there was considerable agreement in the world for term limits. Fifteen states have already passed it and those are initiative and referendum states. Seven more states are expected to have it on the ballot this November.

In addition, other interesting things have been occurring. For instance the State of New Hampshire last year failed by just one vote in its legislature to pass term limits and New Hampshire is not an initiative state. This year that same state had a motion to bring the bill back from the dead file which as you recall is a two-thirds vote in this body and it also is in the New Hampshire legislature. That failed by just six or eight votes. So, it is assumed that New Hampshire will be one of the non-initiative states for instance that is almost certain to pass term limits next year. There is already action going on for the election in the fall and people feel that they will be one of the states to pass it.

The State of Utah, which is in the same situation as Maine, that is it is an initiative state, has passed a term limits measure. That is going out to the voters in the fall. In addition, the state of Minnesota, which is not an initiative state, has a Governor which supports term limits and the House strongly supports term limits and the measure is currently being held up by the Democratic Senate. United States Democratic Senator Paul Lulstone has essentially gone back to Minnesota and said to the Senate get the heck out of the way, this is not what you want to be doing now. So, I think things are coming around where — and this is to partly answer the good gentlelady from Jonesboro's concerns — I think you will find that Maine will be far from alone in this effort. As I said, fifteen states have already passed it, there is another seven coming along. Two or three plus New Jersey which I didn't mention, are states which it is almost certain to pass, so this is an idea whose time is really coming around and it will be, I believe, the standard for the country.

The basic arguments for term limits are as follows: I don't want to take a lot of your time, most people probably know how you feel about the issue itself but I just feel that I need to quickly say that progress has become (in the opinion of the supporters of the term limits) an elitist body of unbeatable incumbents. Only seven out of 1,000 unindited incumbents looses — that is in the last ten years for nation and state legislators. Seven out of 1,000 unindited incumbents.

You know the story about PAC funds, how it is easy to get money if you are an incumbent. Back in 1980 the PAC organizations when they were still relatively new would give half their money to challengers and half to incumbents. Ten or twelve years later those numbers have now changed to roughly 90 percent goes to the incumbents, ten percent to the challengers. That is because the incumbents of both parties got together and said, look, we may very well hold this against you if you give money to our challengers. So, the idea of a free debate and a competitive system has really dissolved in the last ten years.

The idea that we can vote these people out, which is an argument that you often hear that we have term limits at the ballot place on Election Day is really an illusion because you cannot vote them out. I can't vote them out and you can't vote them out and the incumbents literally cannot be voted out. They have a large staff to do all their work for them, studios to produce sound bites to send back home to the state, staff to write their press releases, to prop them up, people to do their makeup, their hair, they have \$200,000 worth of franking mail that goes out every year on the average, for your average House member. Only eight percent of that franking mail is in response to constituents inquiries.

In some election years more members leave the House and Senate by death than by defeat in the election. That is a rate that is on par with the House of Lords in England. So, we have gone past the point of really having a citizens congress, it is now essentially a royal body and that is the backbone of why we think we need term limits.

As I said, it is an idea whose time has come. It is not a new idea. Term Limits is an old idea. Aristotle supported term limits, Cicero supported term limits. Renaissance Venice had term limits. Cato supported term limits. Term limits was in the Articles of Confederation. It was removed from the Constitution because it was considered to be too detailed but Jefferson argued strongly for term limits as did Jackson, that is as in Jefferson Jackson. Also John Adams argued for it, George Washington, Ben Franklin, Abe Lincoln, and JFK and also my favorite Democrat, Harry Truman, supported term limits and he said that it would help cure senility as well as seniority both of which were terrible legislative diseases. So, it is an old idea but its an idea whose time has come.

I urge that this body pass this bill today while we have the chance and the opportunity and save us the hassle in the fall.

Once again I want to emphasize that I fully respect anyone's position wherever you come down on this issue.

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

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: I rise today only to clarify what I consider a little bit of confusion

that some of the members have expressed to me regarding this pending motion.

Generally I would vote against a citizen initiative even if I agree with it so that the voters could consider it. I did not vote that way in committee on this issue however because the group that was largely responsible for getting this issue on the ballot or before us today was ambivalent about that.

Why do I think this is a good idea and why do I think that we should pass it here today? Well, the Maine State Motto is "Dirigo", which means "I lead" and I think today we have an opportunity to lead. There is nothing that requires the leadership or the people more than the effort to limit the powers of government and there is nothing that requires the leadership of the states more than the effort to limit the powers of government and there is nothing that requires the leadership of the states more than the efforts to limit the expanding powers of the Federal Government. There is no issue that goes to the heart of political power more than term limits on political office. As office holders we all have a vested interest in this issue. But, as legislators we are compelled by our constitution to vote on this measure today. Fortunately, if we decide to vote against this bill, the people will have the final say and that is appropriate. It matters not what we do here, if we do not pass this bill the voters will act or have a chance to act. If we do pass this bill they will not have that chance and it will become law here through the legislative process.

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 to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative JOSEPH of Waterville requested a roll call on her motion to accept the Majority "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. 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 Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Women and Men of the House: This is not a win/win situation nor either is it a lose/lose situation. I would call your attention to L.D. 1983 which imposes term limits on the members of Congress. As you know 54,513 valid signatures were turned into the Secretary of State requesting that this bill either be passed here or be passed by the people of Maine. I believe that the position that we are all in tonight is do you believe that the people of the State of Maine will approve this referendum issue dealing with term limits for Congress? As you know, I believe, we are unable to amend or change the law before you. I will say to you that my reason for voting in favor of this bill was not that I support term limits but I find the language in this bill particularly offensive and I truly do not — I would be embarrassed to send this out to the people because in the letters "a" through

"e" it talks about the reasons we need to do this, it is to prevent potential corruption in office. "B" to preserve the integrity of the ballot by limiting the corrupting influence and dominance of special interests. "C," to defend their right to stand for and hold public office by encouraging a larger selection of candidates. To protect and defend their rights to equal protection of the laws by giving more citizens of the state the opportunity to stand and hold public office and to insure that those who are elected to Congress will return to private life to live in this state under the laws they have made while serving in Congress.

I understand your dilemma. I believe that the majority of the State and Local Government Committee that voted in favor of the bill are feeling exactly like you did when they registered their vote. They felt that the public has spoken as far as term limits for legislators. The public has spoken as far as whether or not they wish to impose term limits on members of Congress and now this bill is before us as a peoples representative and we have the opportunity to pass this bill.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I consider myself a fairly pragmatic person and there are three very plain and simple reasons why I believe it makes sense to pass the bill that is before us. One is based on the conversations I have had with people in my district. I am convinced it is going to pass, whether we pass it here tonight or whether it goes out to the voters in November.

Second, is that we have an opportunity to save some money. Instead of spending the money that it would take to send this out we have an opportunity to bypass that process. We have been asked by over 50,000 people to in fact put this into statute and we have an opportunity to do that.

The third reason is that I believe that the final decision will actually rest in court. That can either happen now by passing it or it can happen a year from now after the people have passed it. Either way, I believe that is what is going to happen. I think that it makes a great deal of sense for us to listen to the 60,000 people that in fact signed the petition and sent it forward to us and again you can think back to your down districts and if you believe that it would pass or not and how you feel you need to vote on it is of course up to you.

Again, given the conversations I have had in my district I do believe it is going to pass and I think that we do have an opportunity here to save the people of this state the cost of this referendum as well as the fact that we have so many other races this fall that more confusion added to that, I am not sure would make a great deal of sense.

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

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I originally had strong feelings on this matter and they have been tempered somewhat. They have been tempered by the fact that I have come down here among you, have worked with you, gotten to know you, gotten to respect you and have seen the process and the difficulty that we are all under here.

It is with mixed feelings that I have to tell you

why the public is supporting this as strongly as they are. They view this as a wake-up call. I have said all along that it is too bad it has come to this.

Why are people supporting term limits so strongly? I can tell you what my constituents say, workers' comp, nothing has changed. Talk to small business, talk to injured workers. The problems have not been solved. We have not solved them. If we can't solve their problems they want us out, they want somebody else in. The high cost of electrical rates, electricity, there is another one, we can't seem to solve that problem. All the people are saying, if we can't solve it they want us out and they will put somebody else in.

The regulatory nightmare in this state, if we can't solve that then they want us out and they will put somebody in that will. They are tired of the status quo. It is nothing personal but they see nothing changing. That's the reality.

Again, I just say that it is too bad that it has come to this.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: I just want to rise briefly. I will not stand up very long. I know everybody is tired.

It is my observation and belief, I am not necessarily going to sit around and say that the public is going to vote for this because I am not sure that they are going to vote for this. The major reason that I see is that because it is a state by state process if you vote for term limits in your state and the next state over doesn't have term limits then the next state over can leave their senator or congressman in as long as they want and I would think that there is an inherent advantage for that state for a senator or representative to move their way up and be in a position of power whereas term limits would be forcing our state to do just the opposite. Somebody may be moving up the ranks and all of a sudden they have to leave because of term limits. I am not sure, I would like to see the public debate. I just want to make that point before we all finish this debate.

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

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I just wanted to clarify one point. I was speaking about state issue. As a collector of signatures (at a time when nobody was getting paid for them) people didn't care if we were talking state-wide term limits or congressional term limits, they are putting us all in the same bag, they want us all out because of the issues that affect their daily lives.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of 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 Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: I had no intentions of rising to my feet but I would like to make a comment — that Representative Coffman of Old Town had made.

The people have a right to term us out now. We call it the voting booth with a ballot box. Every two years they have a right to do that so I would suggest that you accept not to pass this bill.

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

ROLL CALL NO. 326

YEA - Ahearne, Barth, Bennett, Birney, Carr, Chonko, Coffman, Cote, Cross, DiPietro, Dore, Gamache, Gould, R. A.; Greenlaw, Jacques, Joseph, Joy, Kerr, Ketterer, Kilkelly, Melendy, Michael, Morrison, Nadeau, Ott, Paradis, P.; Pendexter, Pendleton, Pineau, Plourde, Poulin, Ricker, Ruhlin, Swazey, Tardy, Thompson, Townsend, G.; Vigue, Walker, Whitcomb, Winn, Young, Zirkilton, The Speaker.

NAY - Adams, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Beam, Bowers, Brennan, Bruno, Cameron, Campbell, Carleton, Caron, Carroll, Cathcart, Chase, Clark, Clement, Cloutier, Clukey, Coles, Constantine, Daggett, Dexter, Donnelly, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farnum, Farren, Fitzpatrick, Gean, Gray, Hale, Hatch, Heeschen, Heino, Hichborn, Hoglund, Holt, Hussey, Jalbert, Johnson, Kneeland, Kontos, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Martin, J.; Michaud, Mitchell, E.; Mitchell, J.; Murphy, Nash, Nickerson, Norton, O'Gara, Oliver, Pfeiffer, Plowman, Rand, Reed, G.; Reed, W.; Robichaud, Rotondi, Rowe, Rydell, Saint Onge, Saxl, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Taylor, Townsend, E.; Townsend, L.; Tracy, Treat, True, Tufts, Wentworth.

ABSENT - Cashman, Foss, Hillock, Kutasi, Larrivee, Martin, H.; Pinette, Pouliot, Richardson.

Yes, 44; No, 98; Absent, 9; Paired, 0; Excused, 0. 44 having voted in the affirmative and 98 in the negative, with 9 being absent, the Majority "Ought to Pass" Report was not accepted.

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

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

An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 for Training Equipment for the Maine Technical College System (BOND ISSUE) (H.P. 1442) (L.D. 1968) (C."A" H-970) which was tabled by Representative PARADIS of Augusta pending passage to be enacted.

Subsequently, in accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 126 voted in favor of the same and 5 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the

Senate. Ordered sent forthwith.

An Act to Authorize Department of Transportation Bond Issues in the Amount of \$21,300,000 to Improve Rail and Port Facilities and Make Improvements at State and Municipal Transportation Facilities (S.P. 697) (L.D. 1895) (BOND ISSUE) (Governor's Bill) (S."A" S-540) which was tabled by Representative JACQUES of Waterville pending passage to be enacted.

On motion of Representative O'GARA of Westbrook, under suspension of the rules, the House reconsidered its action whereby L.D. 1895 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Senate Amendment "A" (S-540) was adopted.

The same Representative presented House Amendment "A" (H-1068) to Senate Amendment "A" (S-540) which was read by the Clerk.

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

Representative O'GARA: Mr. Speaker, Men and Women of the House: This amendment provides for the question to be put to the voters in November rather than in June.

Subsequently, House Amendment "A" (H-1068) to Senate Amendment "A" (S-540) was adopted.

Senate Amendment "A" (S-540) as amended by House Amendment "A" (H-1068) thereto was adopted.

The Bill was passed to be engrossed as amended by Senate Amendment "A" (S-540) as amended by House Amendment "A" (H-1068) thereto in non-concurrence and sent up for concurrence. Ordered sent forthwith.

Representative JACQUES of Waterville moved that the House reconsider its action whereby Bill "An Act to Make Statutory Changes to Implement the Recommendations of the Legislature's Total Quality Management Committee" (EMERGENCY) (H.P. 1083) (L.D. 1449) (C. "A" H-951; H."A" H-1063) failed of passage to be engrossed.

On further motion of the same Representative, tabled pending his motion to reconsider whereby the Bill failed of passage to be engrossed and specially assigned for Thursday, April 7, 1994.

On motion of Representative JACQUES of Waterville, the House reconsidered its action whereby An Act to Revise the Laws of Maine to Incorporate the Office of Rehabilitation Services within the Department of Education (EMERGENCY) (H.P. 1431) (L.D. 1956) (Governor's Bill) (C. "A" H-909) was passed to be enacted.

On further motion of the same Representative, tabled pending passage to be enacted and specially assigned for Thursday, April 7, 1994.

Representative SULLIVAN of Bangor moved that the

House reconsider its action whereby the House voted to Recede and Concur on Bill "An Act to Separate Peaks Island and Certain Other Islands in Casco Bay from the City of Portland" (EMERGENCY) (H.P. 1082) (L.D. 1448) (H. "A" H-976 to C. "A" H-849)

Representative DUTREMBLE of Biddeford requested a division on the motion to Reconsider.

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

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: I humbly ask that the House reconsider its action whereas we voted to recede and concur so that we might insist and ask for a Committee of Conference.

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

Representative RAND: Mr. Speaker, Men and Women of the House: I ask you please don't vote to reconsider this. We have been put through the wringer on this issue. The community of Portland known as Peaks Island has suffered enough, put this to bed this year and forget it. Please do not vote to reconsider.

The SPEAKER: The Chair will order a vote. The pending question is the motion of Representative Sullivan of Bangor that the House reconsider its action whereby it voted to recede and concur. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative COFFMAN of Old Town requested a roll call on the motion to Reconsider.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Sullivan of Bangor that the House reconsider its action whereby it voted to recede and concur on L.D. 1448. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 327

YEA - Adams, Ahearne, Anderson, Ault, Bennett, Bowers, Caron, Carr, Carroll, Clement, Coffman, Dexter, Donnelly, Erwin, Farnsworth, Farnum, Farren, Foss, Gray, Greenlaw, Joseph, Joy, Kilkelly, Libby Jack, Libby James, Lipman, Lord, MacBride, Marshall, Morrison, Ott, Pineau, Plowman, Poulin, Reed, G.; Ruhlin, Saint Onge, Simoneau, Skoglund, Tufts, Whitcomb, Winn, Young, Zirnkilton.

NAY - Aikman, Bailey, H.; Bailey, R.; Barth, Beam, Birney, Brennan, Bruno, Cameron, Carleton, Cathcart, Chase, Clark, Cloutier, Clukey, Coles, Constantine, Cote, Cross, Daggett, Driscoll, Dutremble, L.; Faircloth, Fitzpatrick, Gean, Gould, R. A.; Hale, Heeschen, Heino, Hichborn, Hogle, Holt, Hussey, Jacques, Jalbert, Johnson, Ketterer, Kneeland, Kontos, Lemke, Lemont, Look, Marsh, Martin, J.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Murphy, Nadeau, Nash, Nickerson, Norton, O'Gara, Oliver, Paradise, P.; Pendexter, Pendleton, Pfeiffer, Plourde, Rand, Reed, W.; Robichaud, Rowe, Rydell, Saxl,

Simonds, Small, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Tardy, Taylor, Thompson, Townsend, E.; Townsend, L.; Tracy, Treat, True, Vigue, Walker, Wentworth.

ABSENT - Aliberti, Campbell, Cashman, Chonko, DiPietro, Dore, Gamache, Hatch, Hillock, Kerr, Kutasi, Larrivee, Lindahl, Martin, H.; Michael, Pinette, Pouliot, Richardson, Ricker, Rotondi, Townsend, G.; The Speaker.

Yes, 44; No, 85; Absent, 22; Paired, 0; Excused, 0. 44 having voted in the affirmative and 85 in the negative, with 22 being absent, the motion to Reconsider failed.

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

Expression of Sentiment recognizing Carl W. Litsch, of Boy Scout Troop #271 in Presque Isle (HLS 970) which was tabled by Representative DONNELLY of Presque Isle pending passage.

Subsequently, was passed and sent up for concurrence.

On motion of Representative O'GARA of Westbrook, adjourned at 9:00 p.m. until 8:30 a.m., Thursday, April 7, 1994.