

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Seventeenth Legislature
OF THE
State Of Maine

VOLUME I

FIRST REGULAR SESSION

House of Representatives
December 7, 1994 to May 23, 1995

ONE HUNDRED AND SEVENTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
28th Legislative Day
Tuesday, April 4, 1995

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

Prayer by the Reverend Arthur Greely, Danville Union Church, Danville Junction.

National Anthem by Piscataquis High School Jazz Band and Chorus, Guilford.

The Journal of Thursday, March 30, 1995 was read and approved.

The following Communication (H.C. 89) was taken up out of order and under suspension of the rules:

COMMUNICATION

STATE OF MAINE

Office of the Secretary of State

March 30, 1995

To the Speaker of the House of the One Hundred and Seventeenth Legislature:

I, BILL DIAMOND, Secretary of State, in accordance with the provisions of the proclamation issued by the Governor on February 24, 1995, calling for a Special Election to be held on the twenty-eighth day of March in the year one thousand nine hundred and ninety-five to elect a Representative to the Legislature in District 9 and having tabulated the returns of the votes cast;

REPORT AS FOLLOWS; that Norman Paul of Sanford, having received a plurality of the votes cast, appears to have been elected Representative to the 117th Legislature in District 9:

**SPECIAL ELECTION - March 28, 1995
REPRESENTATIVE TO THE LEGISLATURE
HOUSE DISTRICT 9**

	CARR, ROBERT B. Sanford	PAUL, NORMAN Sanford	OTHER
CITY	Republican	Democrat	
SANFORD	665 42.90%	884 57.03%	1 0.06%

I, BILL DIAMOND, Secretary of State, hereby certify that the foregoing report is a true tabulation of the votes cast at the Special Election for Representative to the Legislature in District 9, as reported to me on the returns from the municipality in that district.

S/BILL DIAMOND
Secretary of State

Was read and ordered placed on file.

At this point, the Speaker announced the presence in the Hall of the House of Representative-elect PAUL from Sanford. The Speaker appointed the following Representatives to escort the Representative-elect to the Office of the Governor to take and subscribe the oath necessary to qualify him for the discharge of his official duties:

Representative JACQUES of Waterville
Representative MITCHELL of Vassalboro
Representative TUTTLE of Sanford
Representative SAXL of Portland
Representative MURPHY of Berwick
Representative FARNUM of South Berwick
Representative CHICK of Lebanon

SENATE PAPERS

Bill "An Act to Provide Equal Political Rights for Classified State Employees" (S.P. 407) (L.D. 1095)

Came from the Senate, referred to the Committee on State and Local Government and Ordered Printed.

Was referred to the Committee on State and Local Government in concurrence.

Ought to Pass as Amended

Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-31) on Bill "An Act to Increase the Fee Amount that an Unorganized Territory is Allowed to Retain as an Agent of the State Collecting Excise Taxes" (S.P. 57) (L.D. 86)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-31).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-31) was read by the Clerk and adopted and the Bill assigned for second reading Wednesday, April 5, 1995.

Ought to Pass as Amended

Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-29) on Bill "An Act to Extend the Return Period for Judgment Executions" (S.P. 123) (L.D. 298)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-29).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-29) was read by the Clerk and adopted and the Bill assigned for second reading Wednesday, April 5, 1995.

Subsequently, Representative JACQUES reported that the necessary oath had been taken by the Representative to qualify him to enter upon his official duties.

At this point, the Speaker announced that Representative PAUL would be assigned seat 133.

Representative Paul of Sanford was granted unanimous consent to address the House.

Representative PAUL: Mr. Speaker, Men and Women of the House: After all the excitement I think it is harder to speak right now than it was when I walked up the hill this morning. Talk about a Welcome Back Day, this is the most impressive one that I have ever witnessed and one that I will never forget.

I want to thank everybody that helped me during the hard campaign, the Town Committee, and after 19 days and eight pounds lighter, here I am. I look forward to working with you during this session. I am ready, willing and able. I thank you very much.

At this point, the Sergeant-at-arms escorted Mr. Reggie Hale to the rostrum whereupon Speaker Gwadosky presented him with a Joint Resolution in honor and recognition of Mona Walker Hale. (Applause, the audience rising)

Divided Report

Majority Report of the Committee on Legal and Veterans Affairs reporting "Ought Not to Pass" on Bill "An Act to Prohibit Candidates from Attending the Voting Place Except to Vote" (S.P. 69) (L.D. 157)

Signed:

Senators: STEVENS of Androscoggin

MICHAUD of Penobscot

Representatives: TRUMAN of Biddeford

FISHER of Brewer

CHIZMAR of Lisbon

MURPHY of Berwick

LEMONT of Kittery

LABRECQUE of Gorham

NADEAU of Saco

GAMACHE of Lewiston

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-30) on same Bill.

Signed:

Senator: FERGUSON of Oxford

Representatives: BUCK of Yarmouth

TRUE of Fryeburg

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

Was read.

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

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

Divided Report

Majority Report of the Committee on Legal and Veterans Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-28) on Bill "An Act to Reduce the Number of Days a Tenant May Be in Arrears for Rent Payments" (S.P. 76) (L.D. 164)

Signed:

Senators: FERGUSON of Oxford

STEVENS of Androscoggin

MICHAUD of Penobscot

Representatives: LABRECQUE of Gorham

MURPHY of Berwick

FISHER of Brewer

CHIZMAR of Lisbon

LEMONT of Kittery

TRUE of Fryeburg

BUCK of Yarmouth

NADEAU of Saco

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

Signed:

Representatives: GAMACHE of Lewiston

TRUMAN of Biddeford

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-28).

Was read.

Representative NADEAU of Saco moved that the House accept the Majority "Ought to Pass" as amended Report.

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

Divided Report

Majority Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-27) on Bill "An Act to Ensure Appropriate Resource and Referral Services for Families Needing Child Care" (EMERGENCY) (S.P. 93) (L.D. 233)

Signed:

Senators: PENDEXTER of Cumberland

BENOIT of Franklin

PINGREE of Knox

Representatives: FITZPATRICK of Durham

JOHNSON of South Portland

JOYNER of Hollis

SHIAH of Bowdoinham

ETNIER of Harpswell

MITCHELL of Portland

LOVETT of Scarborough

JONES of Bar Harbor

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

Signed:

Representatives: MARVIN of Cape Elizabeth

WINGLASS of Auburn

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-27).

Was read.

Representative FITZPATRICK of Durham moved that the House accept the Majority "Ought to Pass" as amended Report.

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

Divided Report

Majority Report of the Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-35) on Bill "An Act to Repeal the Prohibition on Prejudgment Attachments in Consumer Credit Cases" (S.P. 124) (L.D. 299)

Signed:

Senators: ABROMSON of Cumberland

SMALL of Sagadahoc

Representatives: CAMPBELL of Holden

GUERRETTE of Pittston

JONES of Pittsfield

LUMBRA of Bangor

MAYO of Bath

VIGUE of Winslow

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

Signed:

Senator: MCCORMICK of Kennebec

Representatives: CHASE of China

GATES of Rockport

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

Was read.

Representative CAMPBELL of Holden moved that the House accept the Majority "Ought to Pass" Report.

On further motion of the same Representative, tabled pending his motion to accept the Majority "Ought to Pass" Report and specially assigned for Wednesday, April 5, 1995.

Divided Report

Majority Report of the Committee on State and Local Government reporting **"Ought Not to Pass"** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for 4-year Terms for Senators (S.P. 155) (L.D. 378)

Signed:

Senator:

Representatives:

LONGLEY of Waldo
DAGGETT of Augusta
AHEARNE of Madawaska
LEMKE of Westbrook
SAXL of Bangor
GERRY of Auburn
ROSEBUSH of East Millinocket
YACKOBITZ of Hermon

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-25) on same RESOLUTION.

Signed:

Senators:

Representatives:

CARPENTER of York
AMERO of Cumberland
ROBICHAUD of Caribou
LANE of Enfield
SAVAGE of Union

Came from the Senate with the Minority **"Ought to Pass"** as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-25).

Was read.

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

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

Divided Report

Majority Report of the Committee on State and Local Government reporting **"Ought Not to Pass"** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the Legislature Following Redistricting in the Year 2003 (S.P. 170) (L.D. 431)

Signed:

Representatives:

DAGGETT of Augusta
AHEARNE of Madawaska
LEMKE of Westbrook
SAXL of Bangor
GERRY of Auburn
ROBICHAUD of Caribou
LANE of Enfield
SAVAGE of Union
YACKOBITZ of Hermon

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-26) on same RESOLUTION.

Signed:

Senators:

Representative:

AMERO of Cumberland
CARPENTER of York
LONGLEY of Waldo

ROSEBUSH of East Millinocket

Came from the Senate with the Minority **"Ought to Pass"** as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-26).

Was read.

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

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

Divided Report

Majority Report of the Committee on Criminal Justice reporting **"Ought Not to Pass"** on Bill "An Act to Create a Board to Hear Citizen Complaints Regarding Private Investigators" (S.P. 182) (L.D. 491)

Signed:

Senators:

Representatives:

BENOIT of Franklin
HALL of Piscataquis
CLARK of Millinocket
BUNKER of Kossuth Township
CLUKEY of Houlton
GOOLEY of Farmington
McALEVEY of Waterboro
PEAVEY of Woolwich
THOMPSON of Naples
WATERHOUSE of Bridgton
WHEELER of Bridgewater

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-37) on same Bill.

Signed:

Senator:

Representative:

O'DEA of Penobscot
JOHNSON of South Portland
Came from the Senate with the Majority **"Ought Not to Pass"** Report read and accepted.

Was read.

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

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

Non-Concurrent Matter

Bill "An Act to Remove Restrictions on Compensation For Deputy District Attorneys" (H.P. 412) (L.D. 569) which was passed to be engrossed in the House on March 23, 1995.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-34) in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

Bill "An Act to Establish a Mobile Home Owners' Bill of Rights" (S.P. 322) (L.D. 903) which was referred to the Committee on Legal and Veterans Affairs in the House on March 30, 1995.

Came from the Senate with that Body having insisted on its former action whereby the Bill was referred to the Committee on Business and Economic Development in non-concurrence.

On motion of Representative ROWE of Portland, the House voted to Recede and Concur.

COMMUNICATIONS

The following Communication: (H.C. 90)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002
March 29, 1995

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

Dear Clerk of the House:

Please be advised that I have made the following appointments to the Council of State Governments, Eastern Regional Conference Committees:

Executive Committee;

Representative Elizabeth H. Mitchell of Vassalboro, primary member

Representative G. Steven Rowe of Portland, alternate member

Economic/Fiscal Affairs Committee;

Representative Hugh A. Morrison of Bangor

Representative Robert A. Cameron of Rumford

Representative Carol A. Kontos of Windham

Representative Eleanor M. Murphy of Berwick

Environment/Energy Committee;

Representative Randall L. Berry of Livermore

Representative Richard H. Campbell of Holden

Representative Edward L. Dexter of Kingfield

Representative David C. Shiah of Bowdoinham

Health Committee;

Representative David Etnier of South Harpswell

Representative Robert J. Winglass of Auburn

Federal Funds Task Force;

Representative Elizabeth Townsend of Portland

Northeast Recycling Council;

Representative Richard Kneeland of Easton

Representative Clyde Hichborn of LaGrange

Transportation Committee;

Representative Paul Chartrand of Rockland

Representative Donald A. Strout of Corinth

Please let me know if you have any questions regarding these appointments.

Sincerely,

S/Dan A. Gwadodsky

Speaker of the House

Was read and ordered placed on file.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills, Resolves and Resolution were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Agriculture, Conservation and Forestry

Bill "An Act to Require Retailers Stores to Label Foods That Have Been Previously Frozen as Previously Frozen" (H.P. 813) (L.D. 1130) (Presented by Representative DAGGETT of Augusta) (Cosponsored by Representative: HATCH of Skowhegan)

Bill "An Act Allowing Veterinarians to License Dogs" (H.P. 832) (L.D. 1163) (Presented by Representative OTT of York)

Resolve, Authorizing the Director of the Bureau of Parks and Recreation to Sell Land and Improvements on Hospital Street in Augusta, Maine Known as the Trial House (H.P. 809) (L.D. 1126) (Presented by Representative DAGGETT of Augusta) (Cosponsored by Representative: MADORE of Augusta, Senator: McCORMICK of Kennebec) (Submitted by the Department of Conservation pursuant to Joint Rule 24.)

The Committee on Agriculture, Conservation and Forestry was suggested.

On motion of Representative KILKELLY of Wiscasset, tabled pending reference and later today assigned.

Banking and Insurance

Bill "An Act Concerning the Liability of Governmental Entities for the Use by Employees of Private Motor Vehicles" (H.P. 824) (L.D. 1155) (Presented by Representative GUERRETTE of Pittston) (Cosponsored by Representative: MAYO of Bath) (Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 24.)

Bill "An Act to Authorize the Issuance of a Credit Card to Benefit the Land for Maine's Future Fund" (H.P. 852) (L.D. 1183) (Presented by Representative VIGUE of Winslow) (Cosponsored by Representatives: CAMPBELL of Holden, CHASE of China, GOULD of Greenville, GUERRETTE of Pittston, Senators: ABROMSON of Cumberland, LORD of York, McCORMICK of Kennebec) (Governor's Bill)

Business and Economic Development

Bill "An Act to Provide for Certain Amendments to Laws Affecting the Finance Authority of Maine" (EMERGENCY) (H.P. 835) (L.D. 1166) (Presented by Speaker GWADODSKY of Fairfield) (Cosponsored by Representatives: KONTOS of Windham, ROWE of Portland, Senators: CIANCHETTE of Somerset, HARRIMAN of Cumberland)

Bill "An Act to Simplify the Licensure Requirements of the Board of Counseling Professionals Licensure" (H.P. 844) (L.D. 1175) (Presented by Representative CAMERON of Rumford) (Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.)

Bill "An Act to Allocate the State Ceiling Governing the Issue of Private Activity Bonds" (EMERGENCY) (H.P. 856) (L.D. 1187) (Presented by Speaker GWADODSKY of Fairfield) (Cosponsored by Representatives: KONTOS of Windham, ROWE of Portland, Senators: CIANCHETTE of Somerset, HARRIMAN of Cumberland)

Bill "An Act to Ensure Disclosures under the Used Car Information Laws" (H.P. 859) (L.D. 1190) (Presented by Representative KONTOS of Windham) (Cosponsored by Representatives: BIRNEY of Paris, GERRY of Auburn, McALEVEY of Waterboro, PLOWMAN of Hampden, TOWNSEND of Portland, Senator: FAIRCLOTH of Penobscot) (Submitted by the Department of the Attorney General pursuant to Joint Rule 24.)

Criminal Justice

Bill "An Act to Provide Funds to Reimburse the Counties for the Cost of Housing Certain Prisoners" (H.P. 810) (L.D. 1127) (Presented by Representative LOOK of Jonesboro) (Cosponsored by Representatives: AHEARNE of Madawaska, BIGL of Bucksport, CAMERON of Rumford, CAMPBELL of Holden, CLARK of Millinocket, CROSS of Dover-Foxcroft, DESMOND of Mapleton, DEXTER of Kingfield, ETNIER of Harpswell, HEINO of Boothbay, JOSEPH of Waterville, JOY of Crystal, LAYTON of Cherryfield, McALEVEY of Waterboro, MORRISON of Bangor, MURPHY of Berwick, NICKERSON of Turner, PINKHAM of Lamaine, REED of Dexter, RICE of South Bristol, ROTONDI of Madison, SIROIS of Caribou, SPEAR of Nobleboro, VOLENIK of Sedgwick, WATERHOUSE of Bridgton, WHEELER of Bridgewater, Senators: BEGLEY of Lincoln, LORD of York, RAND of Cumberland, RUHLIN of Penobscot, STEVENS of Androscoggin)

Bill "An Act to Amend the Operating-under-the-

influence Laws" (H.P. 836) (L.D. 1167) (Presented by Speaker GWADOSKY of Fairfield) (Cosponsored by Representatives: AHEARNE of Madawaska, BAILEY of Township 27, BENEDIKT of Brunswick, BIGL of Bucksport, CAMERON of Rumford, CLOUTIER of South Portland, DAVIDSON of Brunswick, DESMOND of Mapleton, ETNIER of Harpswell, FISHER of Brewer, GERRY of Auburn, GIERINGER of Portland, GUERRETTE of Pittston, HARTNETT of Freeport, HATCH of Skowhegan, KEANE of Old Town, KONTOS of Windham, LINDAHL of Northport, LOOK of Jonesboro, MAYO of Bath, McALEVEY of Waterboro, MERES of Norridgewock, MORRISON of Bangor, NADEAU of Saco, O'GARA of Westbrook, O'NEAL of Limestone, PERKINS of Penobscot, POIRIER of Saco, POVICH of Ellsworth, REED of Dexter, RICHARDSON of Portland, SIROIS of Caribou, STEDMAN of Hartland, STROUT of Corinth, TREAT of Gardiner, TRIPP of Topsham, TRUMAN of Biddeford, TUFTS of Stockton Springs, TUTTLE of Sanford, TYLER of Windham, WATSON of Farmingdale, WHEELER of Bridgewater, WINN of Glenburn, Senators: ABROMSON of Cumberland, BENOIT of Franklin, BUTLAND of Cumberland, CASSIDY of Washington, GOLDTHWAIT of Hancock, HARRIMAN of Cumberland, HATHAWAY of York, LAWRENCE of York, O'DEA of Penobscot, PARADIS of Aroostook, PENDEXTER of Cumberland, STEVENS of Androscoggin) (Submitted by the Department of the Secretary of State pursuant to Joint Rule 24.)

Bill "An Act to Add Forfeiture of a Firearm as a Sentence Alternative for the Crime of Possession of a Firearm by a Felon" (H.P. 842) (L.D. 1173) (Presented by Representative BUNKER of Kossuth Township) (Cosponsored by Representative: JOHNSON of South Portland) (Submitted by the Department of the Attorney General pursuant to Joint Rule 24.)

Bill "An Act Regarding the Bind-over Procedure of Juveniles" (H.P. 843) (L.D. 1174) (Presented by Representative WHEELER of Bridgewater) (Cosponsored by Senator: HALL of Piscataquis) (Submitted by the Department of Corrections pursuant to Joint Rule 24.)

Bill "An Act to Enable the Department of Corrections to Share Information with Canadian Criminal Justice Agencies" (H.P. 846) (L.D. 1177) (Presented by Representative CLARK of Millinocket) (Cosponsored by Representative: CLUKEY of Houlton, Senators: CAREY of Kennebec, HALL of Piscataquis) (Submitted by the Department of Corrections pursuant to Joint Rule 24.)

Bill "An Act to Strengthen the Truancy Laws" (H.P. 857) (L.D. 1188) (Presented by Representative MURPHY of Berwick) (Cosponsored by Representatives: CAMERON of Rumford, FARNUM of South Berwick, HATCH of Skowhegan, KEANE of Old Town, LEMONT of Kittery, PENDLETON of Scarborough, VIGUE of Winslow)

Education and Cultural Affairs

Bill "An Act to Authorize the Maine Principals' Association to Govern Official Refereeing and Umpiring of Secondary School Athletic Contests" (EMERGENCY) (H.P. 829) (L.D. 1160) (Presented by Representative CROSS of Dover-Foxcroft) (Cosponsored by Representatives: CLUKEY of Houlton, DONNELLY of Presque Isle, GUERRETTE of Pittston, JOY of Crystal, KNEELAND of Easton, MADORE of Augusta, MAYO of Bath, McALEVEY of Waterboro, POIRIER of Saco, REED of Dexter, TRUE of Fryeburg)

Human Resources

Bill "An Act to Provide Funding for Services for Persons with HIV or AIDS" (H.P. 816) (L.D. 1133) (Presented by Representative BRENNAN of Portland) (Cosponsored by Representatives: ADAMS of Portland, ETNIER of Harpswell, FITZPATRICK of Durham, JOHNSON of South Portland, MITCHELL of Portland, RICHARDSON of Portland, SAXL of Portland, VOLENIK of Sedgwick, Senators: McCORMICK of Kennebec, O'DEA of Penobscot, RAND of Cumberland)

Bill "An Act to Amend the Maine Cancer Registry Law to Require the Reporting of All Cancer Cases to the Department of Human Services" (H.P. 845) (L.D. 1176) (Presented by Representative ETNIER of Harpswell) (Cosponsored by Representatives: LOVETT of Scarborough, MITCHELL of Portland) (Submitted by the Department of Human Services pursuant to Joint Rule 24.)

Resolve, Directing the Department of Human Services to Establish an Oversight Committee to Study Child Protective Services (EMERGENCY) (H.P. 818) (L.D. 1135) (Presented by Representative BRENNAN of Portland) (Cosponsored by Representatives: ADAMS of Portland, CAMERON of Rumford, CLOUTIER of South Portland, DAGGETT of Augusta, ETNIER of Harpswell, FITZPATRICK of Durham, JOHNSON of South Portland, JONES of Bar Harbor, MITCHELL of Portland, MORRISON of Bangor, ROWE of Portland, SHIAH of Bowdoinham, TOWNSEND of Portland, TREAT of Gardiner, VOLENIK of Sedgwick, Senators: FAIRCLOTH of Penobscot, McCORMICK of Kennebec, O'DEA of Penobscot, PARADIS of Aroostook, RAND of Cumberland)

Inland Fisheries and Wildlife

Bill "An Act to Provide Increased Enforcement of Noise Pollution Laws" (H.P. 815) (L.D. 1132) (Presented by Representative AIKMAN of Poland) (Cosponsored by Representative: AULT of Wayne, Senator: HANLEY of Oxford)

Bill "An Act to Increase Moose Hunting Permit Application Fees" (H.P. 841) (L.D. 1172) (Presented by Representative DAMREN of Belgrade) (Cosponsored by Representatives: KEANE of Old Town, MORRISON of Bangor, NICKERSON of Turner, RICE of South Bristol, SAVAGE of Union)

Bill "An Act to Establish a Moose Lottery Point System" (H.P. 850) (L.D. 1181) (Presented by Representative RICE of South Bristol) (Cosponsored by Representatives: CLARK of Millinocket, DAMREN of Belgrade, HEINO of Boothbay, PENDLETON of Scarborough, SAVAGE of Union, SPEAR of Nobleboro, STEDMAN of Hartland, Senator: CASSIDY of Washington)

Bill "An Act to Modify and Update Certain Laws Pertaining to the Importation and Possession of Wild Turkeys" (H.P. 855) (L.D. 1186) (Presented by Representative TUFTS of Stockton Springs) (Cosponsored by Representatives: CLARK of Millinocket, GREENLAW of Standish, Senators: HALL of Piscataquis, MICHAUD of Penobscot) (Submitted by the Department of Inland Fisheries and Wildlife pursuant to Joint Rule 24.)

Resolve, to Establish the Sportsmen Policing Our Ranks Together Program (H.P. 814) (L.D. 1131) (Presented by Representative JACQUES of Waterville) (Cosponsored by Representatives: AULT of Wayne, CLARK of Millinocket, GOULD of Greenville, KEANE of Old Town, MITCHELL of Vassalboro, PERKINS of Penobscot, TUFTS of Stockton Springs, Senators: BUSTIN of Kennebec, LORD of York)

Resolve, to Require the Department of Inland Fisheries and Wildlife to Remove Deer from Marsh

Island (H.P. 826) (L.D. 1157) (Presented by Representative KEANE of Old Town) (Cosponsored by Representatives: CAMERON of Rumford, CHICK of Lebanon, CLARK of Millinocket, FARNUM of South Berwick, FISHER of Brewer, HATCH of Skowhegan, HICHBORN of LaGrange, MURPHY of Berwick, ROTONDI of Madison, VIGUE of Winslow)

Judiciary

Bill "An Act to Preserve the Life of Viable Fetuses" (H.P. 827) (L.D. 1158) (Presented by Representative MURPHY of Berwick) (Cosponsored by Representatives: AHEARNE of Madawaska, FARNUM of South Berwick, JOY of Crystal, KEANE of Old Town, ROBICHAUD of Caribou, VIGUE of Winslow, Senator: PARADIS of Aroostook)

Bill "An Act to Clarify Recent Amendments to the Laws on Guardianship and Conservatorship" (H.P. 833) (L.D. 1164) (Presented by Representative DONNELLY of Presque Isle) (Cosponsored by Representatives: MADORE of Augusta, ROBICHAUD of Caribou) (Submitted by the Department of Human Services pursuant to Joint Rule 24.)

Bill "An Act to Expand Access to Medical Care by Encouraging Involvement of Retired Physicians, Podiatrists and Dentists" (H.P. 839) (L.D. 1170) (Presented by Representative PLOWMAN of Hampden) (Cosponsored by Representative: JONES of Bar Harbor)

Bill "An Act to Amend the Laws Governing Adoption" (H.P. 851) (L.D. 1182) (Presented by Representative McALEVEY of Waterboro) (Cosponsored by Representative: HARTNETT of Freeport) (Submitted by the Department of Human Services pursuant to Joint Rule 24.)

Labor

Bill "An Act to Amend the Substance Abuse Testing Laws" (H.P. 860) (L.D. 1191) (Presented by Representative CHASE of China) (Cosponsored by Senator: BEGLEY of Lincoln) (Submitted by the Department of Labor pursuant to Joint Rule 24.)

Bill "An Act to Expand Elevator and Tramway Inspection Services" (H.P. 862) (L.D. 1193) (Presented by Representative CHASE of China) (Cosponsored by Senator: BEGLEY of Lincoln) (Submitted by the Department of Labor pursuant to Joint Rule 24.)

Resolve, to Establish the Commission to Study the Use of Per Diem, Part-time and Temporary Employment (H.P. 853) (L.D. 1184) (Presented by Representative TUTTLE of Sanford) (Cosponsored by Representatives: ADAMS of Portland, CHASE of China, HATCH of Skowhegan, JOY of Crystal, KILKELLY of Wiscasset, LEMAIRE of Lewiston, LUTHER of Mexico, MORRISON of Bangor, PENDLETON of Scarborough, ROSEBUSH of East Millinocket, SAMSON of Jay, STEDMAN of Hartland, Senators: BEGLEY of Lincoln, RAND of Cumberland)

Legal and Veterans Affairs

Bill "An Act Regarding the Granting of Hotel Liquor Licenses to Establishments Located on Offshore Islands" (EMERGENCY) (H.P. 830) (L.D. 1161) (Presented by Representative VIGUE of Winslow) (Cosponsored by Senator: ABROMSON of Cumberland)

Marine Resources

Bill "An Act to Correct a Fishing Zone Definition Error" (H.P. 840) (L.D. 1171) (Presented by Representative CLOUTIER of South Portland) (Cosponsored by Senator: GOLDTHWAIT of Hancock) (Submitted by the Department of Marine Resources pursuant to Joint Rule 24.)

Natural Resources

Bill "An Act to Continue the State's Dioxin Monitoring Program" (H.P. 823) (L.D. 1154) (Presented by Representative BERRY of Livermore) (Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.)

Bill "An Act to Create a Tire Emergency Readiness Fund" (H.P. 828) (L.D. 1159) (Presented by Representative SPEAR of Nobleboro) (Cosponsored by Representatives: CAMPBELL of Holden, HEINO of Boothbay, MARSHALL of Eliot, RICE of South Bristol, STROUT of Corinth, Senators: BEGLEY of Lincoln, CAREY of Kennebec, FERGUSON of Oxford, LORD of York)

State and Local Government

Bill "An Act to Amend the Bidding Process for School Construction Purposes" (H.P. 812) (L.D. 1129) (Presented by Representative DAGGETT of Augusta) (Cosponsored by Representatives: BRENNAN of Portland, HATCH of Skowhegan, MADORE of Augusta)

Bill "An Act to Revise the Somerset County Budget Committee" (H.P. 822) (L.D. 1153) (Presented by Representative ROTONDI of Madison) (Cosponsored by Representatives: DEXTER of Kingfield, HATCH of Skowhegan, JONES of Pittsfield, MERES of Norridgewock, REED of Dexter, STEDMAN of Hartland, Senators: BENOIT of Franklin, CIANCHETTE of Somerset, MILLS of Somerset)

Bill "An Act to Incorporate the Town of Biddeford Pool" (H.P. 834) (L.D. 1165) (Presented by Representative JOYCE of Biddeford) (Cosponsored by Representatives: BUCK of Yarmouth, JOYNER of Hollis, MADORE of Augusta, WATERHOUSE of Bridgton, WINSOR of Norway)

Bill "An Act to Allow for the Adjustment of Grant Issuance Procedures" (H.P. 838) (L.D. 1169) (Presented by Representative MAYO of Bath) (Cosponsored by Representatives: KNEELAND of Easton, McALEVEY of Waterboro, POIRIER of Saco, RICE of South Bristol, Senators: McCORMICK of Kennebec, SMALL of Sagadahoc)

Bill "An Act to Give the Washington County Legislative Delegation a Role in the County Budget Process" (H.P. 854) (L.D. 1185) (Presented by Representative BUNKER of Kossuth Township) (Cosponsored by Representatives: BAILEY of Township 27, LAYTON of Cherryfield, LOOK of Jonesboro, Senator: GOLDTHWAIT of Hancock)

Bill "An Act Concerning the Office of Geographic Information Systems" (H.P. 861) (L.D. 1192) (Presented by Representative VIGUE of Winslow) (Cosponsored by Representatives: JACQUES of Waterville, WATSON of Farmingdale, Senator: LORD of York) (Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 24.)

Resolve, to Name a Mountain in the Town of Oxford (H.P. 848) (L.D. 1179) (Presented by Representative UNDERWOOD of Oxford) (Cosponsored by Senator HANLEY of Oxford and Representatives: BARTH of Bethel, BIRNEY of Paris, CAMERON of Rumford, JACQUES of

Waterville, TRUE of Fryeburg, WATERHOUSE of Bridgton, WINSOR of Norway, Senator: FERGUSON of Oxford)

RESOLUTION, Proposing an Amendment to the Constitution of Maine Creating a Unicameral Legislature (H.P. 863) (L.D. 1194) (Presented by Representative LEMKE of Westbrook) (Cosponsored by Representatives: ADAMS of Portland, AHEARNE of Madawaska, BENEDIKT of Brunswick, BUNKER of Kossuth Township, CLARK of Millinocket, DEXTER of Kingfield, GERRY of Auburn, GOULD of Greenville, HATCH of Skowhegan, KERR of Old Orchard Beach, LaFOUNTAIN of Biddeford, MARTIN of Eagle Lake, NADEAU of Saco, O'NEAL of Limestone, SIROIS of Caribou, TRIPP of Topsham, TUTTLE of Sanford, WINN of Glenburn, Senators: CIANCHETTE of Somerset, ESTY of Cumberland, HARRIMAN of Cumberland, LORD of York, MILLS of Somerset, RUHLIN of Penobscot, STEVENS of Androscoggin)

Taxation

Bill "An Act to Decrease the State's Share of Real Estate Transfer Taxes" (H.P. 821) (L.D. 1152) (Presented by Representative WHEELER of Bridgewater) (Cosponsored by Senator MICHAUD of Penobscot and Representatives: AHEARNE of Madawaska, BUNKER of Kossuth Township, CLARK of Millinocket, JACQUES of Waterville, JOY of Crystal, KNEELAND of Easton, LAYTON of Cherryfield, LOOK of Jonesboro, McALEVEY of Waterboro, MORRISON of Bangor, NASS of Acton, O'NEAL of Limestone, SIROIS of Caribou)

Bill "An Act to Clarify the Tax Status of Homeless Shelters in Maine" (H.P. 825) (L.D. 1156) (Presented by Representative DONNELLY of Presque Isle)

Resolve, to Establish Standards by Which to Review Property Tax Exemptions (H.P. 817) (L.D. 1134) (Presented by Representative BRENNAN of Portland) (Cosponsored by Representatives: ADAMS of Portland, DAGGETT of Augusta, FITZPATRICK of Durham, MITCHELL of Portland, ROWE of Portland, TOWNSEND of Portland, TRUMAN of Biddeford, Senator: RAND of Cumberland) (1135)

Resolve, to Create a Task Force on Economic Development Tax Incentives (EMERGENCY) (H.P. 858) (L.D. 1189) (Presented by Representative ROWE of Portland) (Cosponsored by Senator HARRIMAN of Cumberland and Representatives: BIRNEY of Paris, CAMERON of Rumford, CAMPBELL of Holden, DAVIDSON of Brunswick, GATES of Rockport, GWADOSKY of Fairfield, KONTOS of Windham, LaFOUNTAIN of Biddeford, NASS of Acton, REED of Falmouth, REED of Dexter, RICHARDSON of Portland, SIMONEAU of Thomaston, SIROIS of Caribou, TOWNSEND of Portland, TUTTLE of Sanford, Senators: AMERO of Cumberland, CIANCHETTE of Somerset, GOLDTHWAIT of Hancock, RAND of Cumberland)

Transportation

Bill "An Act to Authorize the Use of Loon Plates on Baxter State Park Authority Vehicles" (EMERGENCY) (H.P. 819) (L.D. 1150) (Presented by Representative ADAMS of Portland) (Cosponsored by Representative JACQUES of Waterville, Senator MICHAUD of Penobscot and Representatives: AHEARNE of Madawaska, CAMERON of Rumford, CHARTRAND of Rockland, CLARK of Millinocket, DAVIDSON of Brunswick, GREEN of Monmouth, KEANE of Old Town, KILKELLY of Wiscasset, KONTOS of Windham, LaFOUNTAIN of Biddeford, LEMAIRE of Lewiston, LEMONT of Kittery, MURPHY of Berwick, NADEAU of Saco, O'NEAL of Limestone, ROSEBUSH of East Millinocket, SIMONEAU

of Thomaston, STEVENS of Orono, THOMPSON of Naples, TREAT of Gardiner, TRIPP of Topsham, TRUMAN of Biddeford, WATSON of Farmingdale, WHEELER of Bridgewater, Senator: LONGLEY of Waldo)

Bill "An Act Regarding Designation by the Commissioner of Transportation of a Deputy or Another Staff Member to Represent the Commissioner of Transportation at Maine Turnpike Authority Meetings" (H.P. 847) (L.D. 1178) (Presented by Representative CHARTRAND of Rockland) (Cosponsored by Representatives: BOUFFARD of Lewiston, DAVIDSON of Brunswick, HEINO of Boothbay, LaFOUNTAIN of Biddeford, LEMKE of Westbrook, LIBBY of Buxton) (Submitted by the Maine Turnpike Authority pursuant to Joint Rule 24.)

Bill "An Act Authorizing Seasonal Road Signs Advertising Maple Syrup" (H.P. 849) (L.D. 1180) (Presented by Representative BIRNEY of Paris) (Cosponsored by Representatives: CHICK of Lebanon, DEXTER of Kingfield, GOOLEY of Farmington, GOULD of Greenville, JOY of Crystal)

Utilities and Energy

Bill "An Act to Allow Local Control over the Allocation of Public Fire Protection Costs" (H.P. 820) (L.D. 1151) (Presented by Representative ADAMS of Portland) (Cosponsored by Representative: KONTOS of Windham)

Bill "An Act Regarding Cable Television" (H.P. 831) (L.D. 1162) (Presented by Representative ADAMS of Portland) (Cosponsored by Representatives: KONTOS of Windham, LEMAIRE of Lewiston, Senators: BUTLAND of Cumberland, CARPENTER of York, ESTY of Cumberland)

Resolve, Concerning the Exercise of the Eminent Domain Powers of the Portland Water District (H.P. 811) (L.D. 1128) (Presented by Representative GREENLAW of Standish)

Reported Pursuant to Resolve

Representative TREAT for the People with Disabilities Access Commission pursuant to Resolve 1993, chapter 73, section 7 asks leave to submit its findings and to report that the accompanying Bill "An Act to Implement the Recommendations of the People with Disabilities Access Commission" (H.P. 837) (L.D. 1168) be referred to the Joint Standing Committee on Judiciary for Public Hearing and printed pursuant to Joint Rule 20.

Report was read and accepted, and the Bill referred to the Committee on Judiciary, ordered printed and sent up for concurrence.

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

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the Cony High School Girls Basketball Team, of Augusta, who are the Eastern Class A Girls Basketball Champions, and in extending our congratulations; (SLS 60)

On objection of Representative DAGGETT of Augusta was removed from the Special Sentiment Calendar.

Was read.

the following members of the Cony High School Girls Basketball Team, of Augusta, who are the State Class A Girls Basketball Champions: Tracey Frye, Caroline Foster, Janet Riese, Amy Vachon, Erica Pridham, Eliza Nimon, Lauren LaRoche, Raegan LaRoche, Kate Gardiner, Laura Lord, Mary Beth Coughlin, Christine Huber, Melanie Morin, Nikki McKenney and their Manager Andy Dore and their Coach Paul Vachon and Assistant Coaches David Hopkins, Becky Demos, Gerard LaPierre and Brian Callahan. We extend our congratulations and best wishes to them; (SLS 61)

On objection of Representative DAGGETT of Augusta was removed from the Special Sentiment Calendar. Was read.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Daggett. Representative DAGGETT: Mr. Speaker, Men and Women of the House: I am very pleased to have an opportunity to offer congratulations to the Cony High School 1995 Class A Champions. I have seen a lot of changes in girls basketball over the years. And I can remember — can't remember but I have heard from my Aunt, when she played basketball — the girls court was divided into three sections and there were two players from each team in those three sections of the court. Because at the time it was felt really that girls couldn't run across the full court. By the time that I played in high school we had managed to reach a point where girls could handle a half court and so there were three people from each team, three people who were guards and three who were forwards and, that has kind of led to my claims of basketball that I am quite good, I just don't know how to shoot and I don't know how to dribble. Because, at the time we were allowed to have what was then called two bounces. But today in the proud tradition girls are now playing full court and they have been for some time.

This Cony team is certainly exemplifies the wonderful athletic skills that the girls have. It is just a joy to be able to see them. I have watched a number of their games and I am just thrilled to be able to congratulate them today and tell them how proud we in Augusta are that they brought the gold ball to Cony.

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

Representative MADORE: Mr. Speaker, Ladies and Gentlemen of the House: I did want to echo Representative Daggett's congratulatory message to the Cony High School team and to congratulate my alma mater for such a great job. Cony High School played a great game and they should be congratulated for that. Also to congratulate Representative Daggett on her legend — she is well known on her playing — and the girls have quite a reputation to live up to.

Subsequently, HLS 60 and HLS 61 were passed and sent up for concurrence.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Criminal Justice reporting "Ought Not to Pass" on Bill "An Act to Provide for Resident State Police Officers for

Municipalities without a Police Force" (H.P. 16) (L.D. 10)

Signed:

Senators:

Representatives:

BENOIT of Franklin
HALL of Piscataquis
CLARK of Millinocket
BUNKER of Kossuth Township
GOOLEY of Farmington
JOHNSON of South Portland
McALEVEY of Waterboro
WATERHOUSE of Bridgton
WHEELER of Bridgewater

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-63) on same Bill.

Signed:

Senator:

Representatives:

O'DEA of Penobscot
CLUKEY of Houlton
PEAVEY of Woolwich
THOMPSON of Naples

Was read.

Representative CLARK of Millinocket moved that the House accept the Majority "Ought Not to Pass" Report.

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

Divided Report

Majority Report of the Committee on Criminal Justice reporting "Ought to Pass" as amended by Committee Amendment "A" (H-62) on Bill "An Act to Establish a Presumption That the Owner of a Motor Vehicle Is the Driver If That Vehicle Is Involved in a High-speed Chase" (H.P. 266) (L.D. 368)

Signed:

Senators:

Representatives:

BENOIT of Franklin
HALL of Piscataquis
BUNKER of Kossuth Township
CLUKEY of Houlton
GOOLEY of Farmington
McALEVEY of Waterboro
WATERHOUSE of Bridgton
WHEELER of Bridgewater

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

Signed:

Senator:

Representatives:

O'DEA of Penobscot
CLARK of Millinocket
JOHNSON of South Portland
PEAVEY of Woolwich
THOMPSON of Naples

Was read.

Representative CLARK of Millinocket moved that the House accept the Minority "Ought Not to Pass" Report.

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

CONSENT CALENDAR

First Day

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

(S.P. 184) (L.D. 493) Bill "An Act to Amend Certain Powers of Hospital Administrative District No. 4" (EMERGENCY) Committee on Human Resources reporting "Ought to Pass"

(S.P. 95) (L.D. 235) Bill "An Act to Provide the Maine Legislature with Additional Financial Information" (EMERGENCY) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-32)

(H.P. 23) (L.D. 17) Resolve, to Make the Monument Erected at the Mount Hope Cemetery in Bangor the Official State Memorial Honoring Veterans from Maine Who Died during the Korean War Committee on Legal and Veterans Affairs reporting "Ought to Pass"

(H.P. 421) (L.D. 578) Bill "An Act to Amend Certain Laws Relating to the Collection of Property Taxes" Committee on Taxation reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, April 5, 1995 under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(S.P. 205) (L.D. 548) Bill "An Act to Correct Certain Statutory References in the Crime of Negotiating a Worthless Instrument"

(S.P. 230) (L.D. 596) Bill "An Act to Expand the Uses of the Economic Opportunity Fund" (EMERGENCY) (C. "A" S-23)

(H.P. 533) (L.D. 729) Resolve, to Name the Connector Road from Exit 6 of the Maine Turnpike to Route 1 in Scarborough the Dr. Philip Haigis Memorial Parkway

(H.P. 160) (L.D. 208) Bill "An Act to Simplify the Procedure for Making Anatomical Gifts under the Motor Vehicle Laws" (C. "A" H-60)

(H.P. 172) (L.D. 220) Resolve, to Reduce the Paperwork Required in the Purchase of a Vehicle (C. "A" H-61)

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

BILLS IN THE SECOND READING

Bill "An Act Concerning Municipal Shellfish Conservation Program Penalties" (H.P. 194) (L.D. 253)

As Amended

Bill "An Act to Allow Wine Tasting in Fine Wine Stores" (H.P. 62) (L.D. 98) (C. "A" H-59)

Bill "An Act to Exempt the Custom Sawing of Lumber from the Sales Tax" (H.P. 339) (L.D. 459) (C. "A" H-64)

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

ENACTORS

Emergency Measure

Resolve, to Change the Nature of the Commission to Study the Feasibility of a Capital Cultural Center and Its Powers (H.P. 154) (L.D. 202) (C. "A" H-21)

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

emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of the same and 31 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Emergency Mandate

An Act to Increase the Debt Limit of the Richmond Utilities District (S.P. 151) (L.D. 337) (C. "A" S-22)

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

An Act to Amend the Charter of the Kingfield Water District (H.P. 32) (L.D. 26) (C. "A" H-25)

An Act to Decrease to Zero the Allowable Blood-alcohol Level of a Person Holding a Juvenile Provisional License (H.P. 47) (L.D. 41) (C. "A" H-22)

An Act to Repeal the Sunset on the Grandparents Visitation Act (S.P. 19) (L.D. 50)

An Act to Allow Liens on Claims Not Sounding in Tort (S.P. 144) (L.D. 330)

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.

At this point, the Speaker appointed Representative JACQUES of Waterville to serve as Speaker Pro Tem.

The House was called to Order by the Speaker Pro Tem.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Thursday, March 30, 1995, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

SENATE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (3) "Ought to Pass" - Committee on Marine Resources on Bill "An Act to Require a License for Recreational Harvesting of Marine Organisms and for the Operation of Marine Party Boats" (EMERGENCY) (S.P. 158) (L.D. 420)

- In Senate, Majority "Ought Not to Pass" Report read and accepted.

TABLED - March 30, 1995 (Till Later Today) by Representative CLOUTIER of South Portland.

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

On motion of Representative MITCHELL of Vassalboro, tabled unassigned pending the motion of Representative CLOUTIER of South Portland to accept the Minority "Ought to Pass" Report.

Bill "An Act to Amend the Laws Pertaining to the Duties of Skiers and Tramway Passengers by Defining Inherent Risks" (H.P. 801) (L.D. 1118)

(Committee on Business and Economic Development suggested)

TABLED - March 30, 1995 (Till Later Today) by Representative ROWE of Portland.

PENDING - Reference.

On motion of Representative ROWE of Portland, tabled pending reference and later today assigned.

Bill "An Act to Establish Minimum Qualifications for the Office of Sheriff" (H.P. 790) (L.D. 1107)

(Committee on State and Local Government suggested)

TABLED - March 30, 1995 (Till Later Today) by Representative DAGGETT of Augusta.

PENDING - Reference.

On motion of Representative DAGGETT of Augusta, the Bill was referred to the Committee on State and Local Government, ordered printed and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (11) "Ought Not to Pass" - Minority (2) "Ought to Pass" as amended by Committee Amendment "A" (H-49) - Committee on Taxation on Bill "An Act to Allow the Judicial Department to Make Payment in Lieu of Property Taxes to Municipalities Where Administrative Offices are Located" (H.P. 92) (L.D. 127)

TABLED - March 30, 1995 (Till Later Today) by Representative DORE of Auburn.

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

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I hope you will oppose the pending motion.

I would like to speak to you briefly to explain to you the situation. In the City of Augusta last summer a piece of property was given to the Judicial system. This was a residential home with a value of approximately \$300,000. It meant the loss of about \$5,000 to \$6,000 in property taxes to the City of Augusta. It has been a continual problem over a number of years, the loss of taxable property and particularly to state government. There are certainly other communities that have issues with the loss of taxable property but Augusta is unique in the encroachment of state government in a variety of ways that it continued to take residential property.

For those of you who are not familiar with some of the takings that have happened in the past (for which there has been no payment) I would just call your attention to, if you are facing the Kennebec River from the front porch to your left you will see the DOT building. That used to be a line of residential homes facing Capitol Park. There were probably six or eight homes that were taken right along Capitol Park to make room for the DOT building. There have been other areas that just as you go out Capitol Street, the next street beyond Sewall, there are two residential properties that have been taken over by the state. It is a gradual move that residential property has been taken and removed from the property tax rolls.

I would submit to you that there is a responsibility by state government to make some kind of good faith payment. In fact, it may be offered to you later on as a reason for opposing this is that it

sets a dangerous precedent to have government making a payment to the municipality.

However, it has been done in the past and in fact for several years in a row in the late 1970's there were payments that were made to a variety of communities that had a significant amount of state owned property that was tax exempt.

So, there is nothing unusual about this and this certainly is not a precedent. It has been done periodically.

The Judicial Department has indicated that they are willing to negotiate a payment in lieu of taxes for this particular property because it is out of the ordinary. It is somewhat unusual and they have recognized that. This has taken a residential property off the tax rolls but the Judiciary feels that they need to have statutory authority to do it. So, this legislation is solely permissive legislation. It simply says the Judicial Department has permission to negotiate a payment in lieu of taxes.

Generally the numbers we are talking about are about 50 percent of what the tax loss would be. That is a typical payment in lieu of taxes is a 50 percent loss. But there are no numbers in the bill. The Judicial Department has said they are willing to make a payment and they would have an opportunity (if this bill passes) to simply negotiate and come up with a payment. They are not required to and in fact that might even be the result, was no payment. But, I think it is a good faith effort. It is an opportunity for a good faith effort to say and to start here and say we don't think that is right for municipalities to continue to lose property taxes through a gift like this. I think government, government, should be setting the standard and this is an opportunity to set that standard.

I don't know how we can be saying to other organizations, which we know these discussions are taking place, you must pay but government doesn't have to. Government should set the standards and pay its bills. So, I hope that you will vote against the "Ought Not to Pass" so that we can go on to accept the "Ought to Pass" motion.

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

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: This was a 2/11 report and I want to explain to you the Majority position of the committee and give you several reasons why this would not be a good idea to pass at this time.

The first reason is that it is an exception for one building in one community in one town. Most of you come from towns that if they don't have a state building they may have a University building, they may have a Technical College building, they may have a private college building, they may have a private high school building, they may have church buildings, they may have community service organizations located in your town. Whether those organizations do or do not pay you payment in lieu of services is entirely up to those organizations.

I believe that there is growth in non-taxpaying properties. I believe that we should do something about the growth in non-taxpaying properties, something for all of us in all of our communities, not something for Augusta in one building in its

relationship with the third branch of government, the Judiciary.

The next reason is because this permissive language allows the City of Augusta to enter into negotiations with the Judiciary to determine the payment in lieu of taxes without settling exactly what happens if they don't agree about what the payment in lieu of taxes should be. Do they appeal to the Judiciary? I see a problem there. If you can't go to court what are you going to do, call up the Governor and say, "Well, Governor, Augusta and the Judiciary can't agree as to what the payment in lieu of taxes should be, we have been negotiating for months now, will you decide?" That isn't set forth in the legislation.

Fundamentally, this is a systemic problem in all communities that are service/sector communities where there is a growth in either not for profit, hospitals or in government facilities. That is what we should do, we should decide systemically how do we address this growth? Should we say from now on if you acquire new buildings you are going to do a 50 percent payment in lieu of taxes? Should we say hospitals ought to do a payment in lieu of taxes? But service organizations ought not to and churches ought not to? These are all important questions to answer and they ought to be answered by looking at the whole system.

You can't refer to legislation that is coming up in the future but I think you can take it on faith that we are working on taking a look at this developing problem throughout the state so that there can be a statewide solution.

The third reason this is a bad idea is because the government shouldn't tax itself. I don't care if the government taxed itself in the 1970's and I don't think you should care whether the government taxes itself in the 1970's. We have set now for over a decade the policy that it is inappropriate for the government to tax itself. That is what this would do in terms of the relationship between the Judiciary and the City of Augusta.

The next reason you ought not to do this is because the Judiciary may be telling us they need to do payment in lieu of taxes but in fact I can't find any reading of the law that precludes them from doing payment in lieu of taxes. They simply want permission so that they can say that the Legislature made me do it. Well, I don't think the Legislature ought to make them do it.

Finally, we have this problem. When they got that building that was a gift of a home in Augusta, they left office space in Augusta to go into the building. We haven't yet received figures to show us that there is a savings in the office space over the cost of being in that building. They have to modify the building, they have to heat the building, they have to mow the lawns, they have to paint the building. No where do we yet know if that building is costing them less money, even though it was donated to them, than the office space that they used to be leasing. So, I am not even sure that they have a realized savings from which they can offer to make a payment in lieu of taxes.

Lewiston lost a building several years ago, it belonged to J.C. Penny's, it closed down, it was for sale, it could have been used commercially again, right in the middle of downtown Lewiston. Now it is the Department of Human Services. No one from the Lewiston delegation put in a bill to say, gee, the

Department of Human Services ought to be making payments to Lewiston because we used to get high tax dollars from that commercial property.

I think we do have a problem and I think it is statewide and I think we should come up with some criteria for what ought to be tax exempt and I think we ought to come up with some standards for payment in lieu of taxes because every time you don't have — every time you have a property that moves from taxable to nontaxable it is a tax shift to everyone else in the community. So, I realize Representative Daggett's dilemma and I sympathize with her dilemma but I want you all to realize something else that is very important. As much as she says this is a unique problem to Augusta, Augusta is not the community in Maine with the most tax exempt property. You would be surprised at the number of tiny towns that have more tax exempt property than Augusta.

The SPEAKER PRO TEM: 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 PRO TEM: The pending question is the motion of Representative Dore that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 24

YEA - Aikman, Ault, Barth, Benedikt, Berry, Bigl, Bouffard, Brennan, Buck, Cameron, Carleton, Chase, Chick, Chizmar, Clark, Cloutier, Cross, Damren, Davidson, Desmond, DiPietro, Donnelly, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Gates, Gerry, Gooley, Gould, Greenlaw, Hartnett, Heino, Hichborn, Jacques, Jones, K.; Joseph, Joyce, Joyner, Keane, Kerr, Kneeland, Labrecque, LaFountain, Layton, Lemaire, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Marshall, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nadeau, Nass, Nickerson, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Pouliot, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rosebush, Rotondi, Rowe, Samson, Savage, Simoneau, Sirois, Spear, Stedman, Stone, Strout, Taylor, Thompson, Townsend, Tripp, Truman, Tufts, Tuttle, Tyler, Underwood, Waterhouse, Watson, Whitcomb, Winglass, Winn, Winsor.

NAY - Adams, Ahearn, Bailey, Bunker, Campbell, Clukey, Daggett, Dexter, Gamache, Green, Guerrette, Hatch, Heesch, Johnson, Jones, S.; Joy, Kilkelly, Kontos, Lane, Lumbr, Luther, Madore, Martin, Mitchell EH; Mitchell JE; Morrison, O'Gara, O'Neal, Poulin, Povich, Saxl, J.; Saxl, M.; Stevens, Treat, True, Volenik, Wheeler, Yackobitz.

ABSENT - Birney, Chartrand, Fitzpatrick, Gieringer, Ott, Richardson, Shiah, Vigue, The Speaker.

Yes, 104; No, 38; Absent, 9; Paired, 0; Excused, 0. 104 having voted in the affirmative and 38 in the negative, with 9 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

At this point Speaker Gwadosky resumed the Chair.

HOUSE DIVIDED REPORT - Majority (7) "Ought to Pass" as amended by Committee Amendment "A" (H-52) - Minority (6) "Ought Not to Pass" - Committee on Business and Economic Development on Bill "An Act to Require that Employees in 24-Hour Convenience Stores Have Access to Telephones and Alarms" (H.P. 127) (L.D. 175)

TABLED - March 30, 1995 (Till Later Today) by Representative ROWE of Portland.

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

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

Representative ROWE: Mr. Speaker, Ladies and Gentlemen of the House: I would request that you support the pending motion which is the Majority "Ought to Pass" as amended Report.

L.D. 175 is the bill that is intended to increase employee safety in 24-hour convenience stores. The bill as amended requires that 24-hour convenience stores have either an alarm or a telephone inside the store. Current Maine law requires that 24-hour convenience stores have three things. One, a drop safe attached to the floor with a safe weighing at least 500 pounds. Two, no more than \$50 cash available to employees and; three, a sign stating that the cash register contains \$50 or less and that the store safe is not accessible by the employee. This law was passed in 1991.

What this motion would do would be to add to that a requirement that a 24-hour convenience store have either an alarm or a telephone inside the store. Now, this is amended from the original bill because the original bill proposed that it have both an alarm and a telephone in easy reach of the employee. This has been amended so that it is an either/or and the telephone does not have to be within easy range of the employee, just inside the store.

We heard some concerns that sometimes the employees actually use a phone for non business matters and so if that was a concern of the employer they could place the phone out of easy range of the employee but yet inside of the store.

We also heard some concerns of two industry associations and I believe this amendment - I believe it complies with at least one of them because this basically mirrors a proposed amendment provided by one of the associations. Actually it is a little less strict than the amendment because the amendment would require the telephone be located within easy range of the employee. As I said this bill just requires that the phone be inside.

Why is this needed? Because you would probably think most convenience stores around the state already comply with this. Based on the testimony that we heard, that is probably true. However, there are those stores that have neither an alarm or a phone inside the store. You have probably been inside a convenience store where the only telephone is a coin operated phone outside the store. The motive behind this bill is to increase employee safety. I think it is common sense that a telephone in the store would increase employee safety.

I don't see this as a burdensome demand on business. I think it is a common sense issue. It would increase the safety of store employees.

I would request your support for the pending motion.

Representative AHEARNE of Madawaska requested the Clerk to read the Committee Report.

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

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative POVICH: Mr. Speaker, Colleagues and Friends in the House: As a newly elected legislator, bills similar to L.D. 175 "An Act to Require that Employees in 24-Hour Convenience Stores Have Access to Telephones and Alarms" offer me, as a first term, a valuable lesson on the bill making process.

Before us we have a bill that was originally brought forward by a clerk employed in a convenience store which did not provide a telephone within arms reach. By way of hypothesis or imagination of some terrible scenario, this employee urges us to enact a law which would mandate that all 24-hour convenience stores, not gas stations, not all night diners, not doughnut shops, but just convenience stores to have access to telephones and alarms.

We learned that during the hearing that in the event of a crime the last thing the clerk should do would be reach for a telephone or to sound an alarm. The clerk, we were told, should cooperate with the robber and be prudent not to alarm the criminal thus risking physical violence.

Although requested, no other testimony was provided to suggest that any other convenience store employee in our state was troubled by the fact that the telephone was either in the managers office or located on the wall outside the counter area. Nor was there any hint that convenience stores in Maine failed to provide a safe environment for their employees.

Maine, fortunately, is the safest state in the nation. In other states like Connecticut, convenience store workers work behind bulletproof glass. And, in Florida it is state mandated that two clerks must be on duty at all times. We cannot legislate by hypothesis or by anecdote or by one person's uneasiness working in a particular job. If or when there is wide spread problem in this industry we should be prepared to write a good bill.

You may ask why I am reacting to this bill in this way. It is to me one more well intentioned mandate that is pecking the eyes out of small Maine business.

As a result of much testimony, this bill has been amended to mandate an alarm or telephone within the store that is accessible to the employees. Well, so far as I know this is precisely what exists already without a law. So, to paraphrase Admiral Stockdale's comments as he accepted Ross Perot's offer of candidacy for vice president of the United States in 1992, "Why am I here today? What is this all about?"

This bill ought not to pass.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I would like to present my side of the argument.

I am the sponsor of the bill.

First, I would like to point out to you the fact that what we are voting on today is an amendment, a committee amendment. I would like to point out that it is a bipartisan compromise amendment. It is less strict than the original bill, which would have required access to both the telephone and an alarm.

It is in fact less strict than the amendment proposed by the Maine Oil Dealers Association. The Maine Oil Dealers Association amendment, as

Representative Rowe has pointed out, would have required ready access. In other words, both of those, either of those items provided be right next to the cash register. That is not the case with this amendment.

The second point I would to make is that I put the bill in as Representative Povich indicates, as a result of a constituents experience. My constituent was working, after having been unemployed for a year, in a convenience store. She worked the over-night shift, the graveyard shift so to speak. She was alone in the building. She had no access to a telephone, there was no alarm. The only telephone was a pay phone located outside the building. She was scared and she was right to be scared. She was right to be scared because although, as Representative Povich indicates, Maine has been rated as being a safe state, violence is on the rise here. I think the attack on the Lewiston cab driver is certainly an indication of that. The Department of Safety's statistics for last year indicate a rise in violence in Maine. She was right to be scared.

She was also right to be scared because, as noted by the National Institute for Occupational Safety and Health, which is, I believe, a division of the Centers for Disease Control — there are certain occupations around the country which are at risk for workplace violence and one of them is gas stations, convenience stores. They are one of the three most dangerous occupations. Specifically, workplace violence is the leading cause of death for women on the job. She was right to be scared. We are not working from hypothesis, we are working from facts.

Maine recognized, a few years ago, this situation and attempted to address it by law. Maine instituted three of the recommendations made by the National Institute for Occupational Safety and Health. And, as Representative Rowe points out, those are keeping a drop safe, limiting the amount of cash on hand and posting a sign which indicates that fact.

However, we also learned in the public hearing that virtually no convenience stores observe the law. The reason being that if you limit your cash on hand to less than \$50 you can't pay out lottery tickets. Nobody observes it. One reason they don't observe it is because there is tension within the industry if you go to have your ticket redeemed and they send you down the street your competition gets irked. So, nobody is observing the law.

As you may have heard, good employers do this any way. Ninety-five percent of the members of the Maine Grocers Association (we heard) are in compliance. But, what about those few employers who do not? As a matter of fact, the employer my constituent worked for has had two fatalities and two serious injuries as a result of workplace violence. I can't let this go past without pointing out that one of the first fatalities took place early in the morning, one was at 12:30 one was at 1:00 a.m.. In one case the employee had been on the job less than two months. He was fatally shot in the head while earning \$3.85 an hour.

I want to point out that this is not an attack on the small guy. It is not an attack on the Mom and Pop business store. If anything, I would think that it is more directed at their competition, the multi-national corporations who own the 24-hour convenience stores. Mom and Pop stores are not open 24 hours.

Finally, the cost to an employer is minimal. Under the amendment one need only provide at telephone, a minimal expense. Balance that against operating your business 24 hours a day. Clearly, people keep a business open 24 hours a day because that is financially worthwhile. And, an alarm, which is only an option, not required, could be installed for as little as \$100 and monitored, monitored, for as little as \$15 a month. I think it is a very small cost and I think it is well worth it to preserve a life.

I would urge you to accept the Majority "Ought to Pass" as amended Report.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: I am on the Business and Economic Development Committee and I voted on the side in support of the "Ought to Pass" as amended Report. I think that you have heard arguments on both sides of the issue, we shouldn't pass it because it doesn't cover doughnut shops. That doesn't make sense to me that we don't pass something because it doesn't cover enough. We can expand it if it is necessary.

When I sat and listened to the arguments about this I could not help but think if a member of my family were working in one of these convenience stores how much more comfortable I would be knowing if they had a means of contact.

I am not naive enough to believe that it is going to prevent a robbery. I am not naive enough to believe that a robber is going to stand there while you make a phone call or stand there while you sound an alarm. I may be from the woods of Maine but I am not that naive.

I do think it is important that access to a phone be provided by an employer. We have heard the argument that store employees will spend time talking on the phone rather than doing their job. I think that is a management issue. We are talking about a safety issue for the employees.

If the amendment provides the opportunity for the employer to provide only a pay phone, that is not unreasonable. Employees are not going to spend a lot of time on a pay phone. It is merely access if somebody — and it doesn't deal just with violence issues. It also deals with issues that a person, say that comes in and has a coronary. You need to have access to call somebody for help. That is not unreasonable. Pay phones, as I understand, for particularly in the urban areas you can dial — we don't have a 911 system but in the urban areas where you have 911 systems you can call 911 without using change for the pay phone.

I don't see where it is a real burden on the employer to provide a pay phone inside the building where the person can get at it. I would prefer that it wasn't a pay phone but that is a compromise. This doesn't seem to me to be an unreasonable burden on employers.

I know that in the past the state Legislature has had a reputation of being completely unfair to employers but this seems like a very small price to pay and I reference the good Representative who spoke before me, who indicated that there are a very very small minority of folks that don't do it now and it tends to be in the larger convenience store chains and it seems to us that it would be very reasonable and it is a public safety issue, not just for the

employee but for the customers as well. One never knows what kind of emergency is going to arise whether it be a fire or be a robbery or it be some kind of health issue.

I urge you to support the motion on the floor.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins. Representative PERKINS: Mr. Speaker, I would pose a question through the Chair.

Did I understand that small businesses, the so called Mom and Pop stores are exempt from this?

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

The Chair recognizes the Representative from Portland, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: To answer the question, no they are not exempt by description or by name. To my way of thinking they are exempt because I am not familiar with a Mom and Pop store which opens 24-hours a day. This is specifically directed at 24-hour a day stores and in my experience they tend to be owned by multi-national corporations.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to agree with the good Representative from Portland. I ran a convenience store for 23 years. I was not open 24 hours a day. I was open until midnight. I always had a phone right behind the cash register, also had a pay phone down the other end of the building. But, that phone behind the cash register was for emergency use. If whoever was working for me, if their family wanted to get in touch with them in case of an emergency, if there was a fire — you would be surprised at the many reasons why you really need a telephone behind a cash register. People run in for help, you can't leave but you can phone, you can get help to them. Sickness. And, robbery is probably one of the least reasons you would need a telephone. When it comes to a robbery I think you probably better hand it over and give it to them.

I think this is a good bill and I think it should be extended to people who are open late at night because when anyone is alone in a store they should have access to a telephone. They may even get sick and need help in an emergency and they can dial 911 in my area.

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

Representative KERR: Mr. Speaker, Men and Women of the House: I would pose a question. If in fact the situation had happened in Portland that the good Representative from Portland had indicated, isn't it possible that the town can put a condition on the licenses prior to being granted rather than put a law through? Can't towns put conditions on licenses?

The SPEAKER: Representative Kerr of Old Orchard Beach 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, I would pose a question through the Chair.

If someone closes for a half hour are they exempt from this bill?

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

The Chair recognizes the Representative from Portland, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I will start by answering Representative Donnelly's question. I think that someone who wants to subvert the law can subvert the law.

To Representative Kerr I would say, I am not a city councilor and I apologize for not being familiar with the city ordinances. However, my constituent contacted me and I felt that it was a valid issue to bring to the state level.

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

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House: I have heard this debate now for some time. My concern is that this is just another mandate on small businesses and it seems to me that if an employer doesn't have enough common sense to have a telephone in his business then those who work for him perhaps shouldn't. We are talking about one incident throughout the whole state and it seems to me we shouldn't legislate that just for one incident.

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

A vote of the House was taken.

Representative TREAT of Gardiner requested a roll call on the motion to accept the Majority "Ought to Pass" as amended 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: A roll call has been ordered. The pending question is the motion of Representative Rowe of Portland that the House accept the Majority "Ought to Pass" as amended Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 25

YEA - Adams, Ahearne, Aikman, Ault, Bailey, Benedikt, Berry, Brennan, Bunker, Cameron, Chase, Chick, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, Dexter, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gates, Gerry, Gooley, Gould, Green, Hartnett, Hatch, Heeschen, Jacques, Johnson, Jones, S.; Joseph, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Lemont, Look, Luther, Martin, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nickerson, O'Gara, Perkins, Pouliot, Reed, G.; Richardson, Ricker, Robichaud, Rosebush, Rotondi, Rowe, Samson, Savage, Saxl, M.; Simoneau, Stevens, Thompson, Townsend, Treat, Tripp, Truman, Tufts, Tuttle, Tyler, Volenik, Watson, Whitcomb.

NAY - Barth, Bigl, Bouffard, Buck, Campbell, Carleton, Clukey, Cross, Damren, Donnelly, Dunn, Gamache, Greenlaw, Guerrette, Heino, Hichborn, Jones, K.; Joy, Joyce, Joyner, Kerr, Kneeland, Labrecque,

Lane, Layton, Libby JD; Libby JL; Lindahl, Lovett, Lumbr, Madore, Marvin, Mayo, McAlevey, McElroy, Nass, O'Neal, Paul, Peavey, Pendleton, Pinkham, Plowman, Poirier, Poulin, Povich, Reed, W.; Rice, Sirois, Spear, Stedman, Stone, Strout, Taylor, True, Underwood, Waterhouse, Wheeler, Winglass, Winn, Winsor, Yackobitz.

ABSENT - Birney, Chartrand, Gieringer, Keane, Marshall, Ott, Saxl, J.; Shiah, Vigue, The Speaker.

Yes, 80; No, 61; Absent, 10; Paired, 0; Excused, 0.

80 having voted in the affirmative and 61 in the negative, with 10 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-52) was read by the Clerk and adopted. The Bill was assigned for second reading Wednesday, April 5, 1995.

HOUSE DIVIDED REPORT - Majority (7) "Ought to Pass" as amended by Committee Amendment "A" (H-51) - Minority (6) "Ought Not to Pass" - Committee on Labor on Bill "An Act to Amend the Misconduct Provisions of the Unemployment Compensation Law" (H.P. 130) (L.D. 178)

TABLED - March 30, 1995 (Till Later Today) by Representative HATCH of Skowhegan.

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

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

Representative CHASE: Mr. Speaker, Men and Women of the House: I almost hesitate to rise on the sixth matter of unfinished business, but I do beg your indulgence, your patience and your attention to this matter. This will not be the easiest bill for me to explain to you. It is a bit complicated so, please, bear with me.

I am urging you to support the "Ought to Pass" as amended motion.

This bill is a direct response to a decision of the Maine Law Court in a case called Forbes-Libby vs. the Maine Unemployment Insurance Commission. This is part of the problem, I am not a lawyer. The Unemployment Insurance Commission denied employees unemployment benefits. That employee was named Jean Forbes-Libby, therefore, the name of the case.

The Superior Court of Maine overturned that decision or I believe it is called vacated, and, a Law Court overturned that decision.

The history is that an employee named Jean Forbes-Libby made an unsafe lane change (she was a truck driver) and that resulted in a preventable accident. Her employer appears to have been a good and responsible employer. The employer had a policy on the subject. The employer had established an accident review process. The employer fired her, informed her of the decision and she did not appeal that decision.

The employee then applied for unemployment benefits when she was searching for another job and those benefits were denied. That is really what we are talking about, unemployment benefits, not whether or not the employee was at fault.

The Unemployment Commission determined that her careless and negligent driving was so careless and negligent that it constituted misconduct within the statutory definition of misconduct. And, if you in fact misbehave, according to law, you can be denied your unemployment benefits.

I am going to ask for your indulgence for another minute while I read you the definition of misconduct because it is fairly essential that we know what it is that we are talking about. "Misconduct," this is current law, means, "conduct evincing such willful or wanton disregard of an employers interest as is found in deliberate violations or disregard of standards of behavior that the employer has a right to expect of an employee or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design or to show an intentional and substantial disregard of the employers interests or of the employees duties and obligations to the employer." That is what misconduct is, if you do that, you can be denied benefits.

That decision was appealed. The Supreme Court held that the employees single act of negligence was insufficient to constitute what I just read to you, evil design, willful intent. Then the commission appealed to the Law Court who then overturned that decision.

Okay, that was the background. I am frankly not concerned about the employee being fired. She seems to have been, under state law you work at will the employer can fire you. She created an unsafe condition and she accepted the consequences.

I might even have agreed with that original decision of the employer, but what we are talking about is what the Law Court said to us in its final decision. How it has affected our laws concerning unemployment benefits and that is the problem.

The decision was a three/two decision. It was not overwhelming. The dissenters put it quite clearly, if the Legislature had intended for misconduct to include a single act of simple negligence it would so have provided, and we did not.

The writers of the opinion said, "Although recurrent acts of negligence typically form the basis for denying benefits," in other words an unsafe lane change, the employer says you are not driving very well, you have got to drive better, another unsafe lane change — the employer says, "Hey, let's sit down and talk; you are going to lose your job if you keep it up." An unsafe lane change — at that point you are disregarding your employers intent and you are disregarding the well being of your employer.

However, some of us do make mistakes. Some mistakes are more expensive than other mistakes but it is still a simple act of negligence.

So, the writers of the opinion said that although that typically recurrent acts form the basis for denying a benefit but then our statute contemplates that a single act of negligence may also constitute misconduct.

My colleagues, what I am asking you to do is to support the "Ought to Pass" on this bill. What this bill does is add one line to statute. That line is, "one act of simple negligence is not misconduct within the meaning of this chapter." To be perfectly clear it does not mean that you cannot be fired for misconduct. You can be fired for the way that you walk across a room, that is how it works in the State of Maine. What this does is to say that if you are guilty of a single simple act of negligence you cannot be denied unemployment benefits.

Thank you for your attention and I urge that you support the "Ought to Pass" as amended Report.

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

Representative PENDLETON: Mr. Speaker, Men and Women of the House: I wish to rise today to encourage the vote to "Ought Not to Pass."

As many of you know I worked 25 years for the Labor Department, a number of them in the Unemployment Division, seven years of them as the Chair of the Unemployment Commission. This case, Forbes-Libby, has a number of cites in it. One is Marie Moore, which basically sets the standard for what misconduct is in the State of Maine, other than the definition. Marie Moore sets the standard that the employer has reasonable rules, the employees conduct to those rules is reasonable and if they are applied in that manner there is no misconduct.

In this particular case, this young lady was driving a tractor trailer truck down in Maryland, from what we understand, she passed — was in the process of passing two cars, passed the first car, decided she could not pass the second car and pulled back in. A lot of people assumed when they initially started reading this that the unsafe lane change was that she hit the back car. That is not the fact. The fact is she was not looking out through her windshield and drove directly into the car that she was pulling in back of, spinning it out of control and back underneath her trailer which caused considerable damage to the car and put the individual in the hospital.

As Representative Chase said, her employer had a program for reviewing accidents and after the review discharged the individual. This person filed an unemployment claim, and, under the standards set forth and from what the claims office ruled on, the claims office initially ruled in favor of this individual. This is not a case where the individual was denied all the way. The company filed an appeal to the second level which is the appeals tribunal and again, it was found in favor of the claimant. Looking at the factual items they had before them, they ruled in her favor.

It went to the commission. The commission had a split decision, a three man commission ruled two to one against the individual — establishing about a \$3,200 over payment to her benefit account. The individual then filed to the Superior Court, the Superior Court which based their entire decision on the record, ruled in favor of the claimant. It was appealed by the Maine Department of Labor and the employer to the State Supreme Court and they got a split decision against the claimant, therefore the denial.

For us to change the rules and put in simple negligence is not misconduct within the meaning is going to create a problem. It is a bad change to the rules.

The local office claims deputy who ruled in the first case and the appeals tribunal in the second case and specially on the local office level, these individuals are people that have been working with the state law, taking the facts as they see them and applying them. And, 95 percent of the cases where you have a misconduct decision or a decision under the misconduct provisions it is in favor of the claimant. The rules that they look at, basically as (for under a misconduct case) is that the employer has to prove that it is misconduct. The burden of proof is on the employer not on the employee.

On involuntary quit cases it reverses, the voluntary quit, it is on the claimant, not the employer.

For us to change it and take and put in this language you are going to force local office claims deputies to look at this issue. If they look at this issue and it gets presented to them in a manner at that lowest level where usually your fact investigation is not that great, you are going to get a situation where you are going to get more denials than you are in favor of the claimant. Unemployment is an earned right. As Representative Chase said, an employer can fire anybody at any point in time that they wish, for any reason.

I am just afraid if we put in this line, forcing deputies that don't have the expertise and training, that they should have, to be looking at this one simple line and nobody define what simple negligence was, then we are going to have more people denied benefits at the initial level than we need to have.

So, I encourage you to that this is the situation where we should be voting for the "Ought Not to Pass."

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

Representative CHASE: Mr. Speaker, Colleagues of the House: I will try to be brief this time.

Representative Pendleton is very close to the UI Commission and knows the rules well. I disagree (or I would not have put this bill forward) that it will result in denial of claims. I think not.

However, the other issue that I disagree with is that changing the language of the rule will be a bad thing. I am not asking you to change the UI rules. I am asking us to clarify the law. Every commission that makes decisions, every court that makes decisions, makes those decisions based on law. They are constantly interpreting them. This does not make the job of interpretation any more difficult, this is the same job of interpretation that every court and every commission has to make based on what we put in law.

The challenge was brought to us by both the opinion writers and the dissenters in this case, that if we had intended something we should have put it in law. The decisions prior to this one had assumed that. This decision did not. I am asking that we clarify further decisions by putting this — by clarifying our law.

Mr. Speaker, when the vote is made, I ask for the yeas and nays.

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

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

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

ROLL CALL NO. 26

YEA - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fitzpatrick, Gamache, Gates, Gerry, Gould,

Green, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Kerr, Kilkelly, Kontos, Lemaire, Lemke, Luther, Martin, Meres, Mitchell EH; Mitchell JE; Morrison, O'Gara, O'Neal, Perkins, Pouliot, Povich, Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Sirois, Stevens, Thompson, Townsend, Treat, Tripp, Truman, Tuttle, Tyler, Volenik, Watson, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Bigl, Buck, Cameron, Campbell, Carleton, Chick, Clukey, Cross, Damren, Dexter, Donnelly, Dunn, Farnum, Fisher, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Keane, Kneeland, Labrecque, LaFountain, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marvin, Mayo, McAlevey, McElroy, Murphy, Nadeau, Nass, Nickerson, Paul, Peavey, Pendleton, Pinkham, Plowman, Poirier, Poulin, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, True, Tufts, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor, Yackobitz.

ABSENT - Birney, Chartrand, Gieringer, Marshall, Ott, Shiah, Vigue.

Yes, 68; No, 76; Absent, 7; Paired, 0; Excused, 0.

68 having voted in the affirmative and 76 in the negative, with 7 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.

HOUSE DIVIDED REPORT - Majority (10) **"Ought Not to Pass"** - Minority (3) **"Ought to Pass"** - Committee on **Agriculture, Conservation and Forestry** on Bill "An Act to Require Labeling on Genetically Engineered Food" (H.P. 220) (L.D. 279)

TABLED - March 30, 1995 (Till Later Today) by Representative KILKELLY of Wiscasset.

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

On motion of Representative KILKELLY of Wiscasset, tabled pending her motion to accept the Minority **"Ought to Pass"** Report and specially assigned for Wednesday, April 5, 1995.

HOUSE DIVIDED REPORT - Majority (10) **"Ought Not to Pass"** - Minority (3) **"Ought to Pass"** as amended by Committee Amendment "A" (H-46) - Committee on **State and Local Government** on RESOLUTION, Proposing an Amendment to the Constitution of Maine Allowing Maine Citizens to Propose Constitutional Amendments by Initiative (H.P. 227) (L.D. 305)

TABLED - March 30, 1995 (Till Later Today) by Representative DAGGETT of Augusta.

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

On motion of Representative AHEARNE of Madawaska, tabled pending the motion of Representative DAGGETT of Augusta to accept the Majority **"Ought Not to Pass"** Report and specially assigned for Wednesday, April 5, 1995.

TABLED AND TODAY ASSIGNED

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

HOUSE ORDER - Relative to House Rule 1 and House Rule 55 (H.O. 17)

- In House, Read on March 30, 1995.

TABLED - March 30, 1995 by Representative JACQUES of Waterville.

PENDING - Passage.

On motion of Representative JACQUES of Waterville, tabled pending passage and specially assigned for Wednesday, April 5, 1995.

HOUSE DIVIDED REPORT - Majority (7) **"Ought to Pass"** as amended by Committee Amendment "A" (H-50) - Minority (6) **"Ought Not to Pass"** - Committee on **Labor** on Bill "An Act to Allow Contract Employees of the Maine State Ferry Service to Buy Retirement Time" (H.P. 234) (L.D. 314)

TABLED - March 30, 1995 by Representative HATCH of Skowhegan.

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

On motion of Representative HATCH of Skowhegan, tabled pending her motion to accept the Majority **"Ought to Pass"** as amended Report and specially assigned for Thursday, April 6, 1995.

HOUSE ORDER - Relative to amending House Rule 7 (H.O. 15)

- In House, Read on March 21, 1995.

TABLED - March 30, 1995 by Representative CARLETON of Wells.

PENDING - Passage. (2/3 Vote Required)

On motion of Representative CARLETON of Wells, tabled pending passage and specially assigned for Wednesday, April 5, 1995.

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

SENATE PAPERS

Bill "An Act to Wind Up the Affairs of the Maine Medical and Hospital Malpractice Joint Underwriting Association" (S.P. 436) (L.D. 1204)

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

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

Bill "An Act to Allow Pharmacies That Serve Long-term Care Recipients to Receive Discounts from Manufacturers" (S.P. 417) (L.D. 1140)

Bill "An Act to Amend Certain Provisions of the Maine Emergency Medical Services Act of 1982" (S.P. 421) (L.D. 1144)

Bill "An Act to Amend the Social Work Practice Licensing Laws" (S.P. 425) (L.D. 1148)

Resolve, Directing the Department of Professional and Financial Regulation to Provide Greater Uniformity among Occupational Regulatory Boards (EMERGENCY) (S.P. 427) (L.D. 1195)

Came from the Senate, referred to the Committee on **Business and Economic Development** and Ordered Printed.

Were referred to the Committee on **Business and Economic Development** in concurrence.

Bill "An Act to Clarify the Definition of Escape" (S.P. 430) (L.D. 1198)

Bill "An Act to Amend the Maine Criminal Code by Correcting References to Committee Structure" (S.P. 431) (L.D. 1199)

Bill "An Act to Rename the Crime of Endangering the Welfare of an Incompetent Person" (S.P. 435) (L.D. 1203)

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

Were referred to the Committee on Criminal Justice in concurrence.

Bill "An Act to Provide for Public Health Standards in Public Schools Similar to Standards Required in Private Industry" (S.P. 433) (L.D. 1201)

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

Was referred to the Committee on Education and Cultural Affairs in concurrence.

Bill "An Act to Provide Immunity for Clinicians Contracted by the State Forensic Service" (S.P. 413) (L.D. 1136)

Bill "An Act to Ensure Efficiency in Delivery of Home Health Care Services in Congregate Settings by Eliminating Unnecessary Regulation" (S.P. 416) (L.D. 1139)

Bill "An Act Regarding Abandoned Prescription Drugs at State Facilities" (S.P. 419) (L.D. 1142)

Bill "An Act to Adopt Uniform Standards for Substance Abuse Treatment" (S.P. 420) (L.D. 1143)

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

Were referred to the Committee on Human Resources in concurrence.

SENATE PAPERS

Bill "An Act to Remove the Statute of Limitations in Cases of Sexual Abuse of a Minor" (S.P. 415) (L.D. 1138)

Bill "An Act to Prohibit the Practice of Scalping" (S.P. 423) (L.D. 1146)

Bill "An Act to Amend the Medical Examiner Act" (S.P. 438) (L.D. 1206)

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

Were referred to the Committee on Judiciary in concurrence.

Bill "An Act Concerning Employee Leasing Companies" (S.P. 418) (L.D. 1141)

Bill "An Act to Conform State Unemployment Compensation Laws to Federal Requirements" (S.P. 437) (L.D. 1205)

Bill "An Act to Correct Certain Errors and Inconsistencies in Employer's Contributions and Coverage in Unemployment Compensation" (S.P. 439) (L.D. 1207)

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

Were referred to the Committee on Labor in concurrence.

Bill "An Act to Exempt from Lobster Meat Permit Requirements the Sale of Less Than \$1500 Worth of Lobster Meat" (S.P. 414) (L.D. 1137)

Bill "An Act to Enhance Export Markets for Maine Sardines and Other Canned Herring Products by

Clarifying the Maine Sardine Law" (EMERGENCY) (S.P. 426) (L.D. 1149)

Bill "An Act to Encourage an Alternative Fishery" (S.P. 428) (L.D. 1196)

Bill "An Act Concerning the Sale of Double Gauge Lobster Measures" (S.P. 429) (L.D. 1197)

Bill "An Act to Amend the Laws Pertaining to the Marine Resources Advisory Council" (S.P. 441) (L.D. 1209)

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

Were referred to the Committee on Marine Resources in concurrence.

Bill "An Act to Require Unanimous Approval by the Hancock County Commissioners to Change the Recommendations of the Budget Committee" (S.P. 422) (L.D. 1145)

Bill "An Act to Encourage the Training and Hiring of Resident Workers" (S.P. 432) (L.D. 1200)

RESOLUTION, Proposing an Amendment to the Constitution of Maine Regarding the Constitutional Amendment Process (S.P. 440) (L.D. 1208)

Came from the Senate, referred to the Committee on State and Local Government and Ordered Printed.

Were referred to the Committee on State and Local Government in concurrence.

Bill "An Act to Guarantee That Tax Increment Financing Results in Net Gains" (S.P. 434) (L.D. 1202)

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

Was referred to the Committee on Taxation in concurrence.

Bill "An Act to Increase Capitalization of the Seal Harbor Water Company" (S.P. 424) (L.D. 1147)

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

Was referred to the Committee on Utilities and Energy in concurrence.

ENACTORS

Emergency Measure

An Act to Amend the Law Regarding Mandatory Insurance Coverage for Mental Illness (H.P. 150) (L.D. 198) (C. "A" H-27)

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. 117 voted in favor of the same and 3 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Appropriate Funds for the Expansion and Renovation of the Norway Armory (H.P. 270) (L.D. 372) (C. "A" H-24)

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

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

Representative JONES: Mr. Speaker, I would pose a question through the Chair. Could someone inform me as to where this money is coming from?

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

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

Representative KERR: Mr. Speaker, Men and Women of the House: In reference to the question that was asked, the funding will come from the General Fund, a total of \$542,000 — almost \$543,000 and then \$75,000 of that will — an additional \$75,000 will come from the Stripper Well money.

Just to go a little beyond just answering that response, I think I have got to give a little historical perspective about this particular piece of legislation.

Two years ago the same bill did come up before the Appropriations Committee, along with the Augusta Armory. Those items were not funded. This year Governor King included the funding for the Norway Armory in his emergency budget which was part of L.D. 155. In that proposal the funding included \$467,000 or \$468,000, would be transferred from the Rainy Day Fund and \$75,000 would be taken from the Stripper Well money. That is where you get the total of that \$543,000 give or take a few dollars.

At that point the Appropriations Committee, through a Joint Order that was passed in both bodies, was allowed to send out a separate bill and in that we chose that route and that vehicle to send out a separate bill. So, this particular bill went to — it became L.D. 372 as an emergency measure before us here today. It went to Legal and Veteran Affairs Committee. The members on the Appropriations Committee, I think the entire membership, didn't feel it was a prudent way to fund this type of program, through Rainy Day Appropriations. So, at that time the bill did go to Legal Affairs and now the appropriation is coming from the General Fund which will take care of \$468,000. This would add a fiscal note to the bill and if this bill is passed in both bodies it will sit on the Appropriations table.

The only question I do have is when General Durgin did come before the Appropriations Committee, the question was posed is when do you have to let the Federal Government know on this issue. At that time he indicated to the committee that the drop dead date was April 1st. As we all know, that date has come and gone.

I would urge you not to support this piece of legislation. I am going to vote against this piece of legislation before us.

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

Representative TRUE: Mr. Speaker, I would ask a question of anyone that would answer it.

The question is that I understand the money situation as far as the state is concerned but is there not — this is also tied with money that is coming from the Federal Government?

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

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

Representative KERR: Mr. Speaker, Men and Women of the House: In reference to Representative True's question, yes, not only is there federal funds that

would matched similar to other programs throughout state government. Normally just because there is a federal match, as we all know, this body doesn't automatically concur. The federal dollars do run out, I believe, sometime in September.

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

Representative WINSOR: Mr. Speaker, Men and Women of the House: I stand before you today to ask that you support this funding or this project, the Norway Armory project.

Several weeks ago each of us were privileged to spend time with a member of the Maine National Guard. I think that each one of us has a basic understanding of the importance of the Guard mission of the State of Maine. The bottom line is that if you are going to have a National Guard Program you have to provide a place for them to conduct that program.

I found out about this project shortly after the elections and because it is located in my home town I took a special interest in gathering information and touring the facility. Frankly, I was alarmed and saddened that we have let this public building fall to its current level of disrepair. I am told that this is not an unusual situation for your public buildings in the state generally.

In fact, I think the 115th and 116th Legislature failed to appropriate any kind of capital improvement monies.

The fact is that we have failed to budget adequate repair and maintenance money for a number of years. The result is that we would have to spend \$7.5 million in repair jobs this year to bring the 23 armories state wide to a minimum level of standards.

What is happening is, of course, these buildings are falling down and huge public investment is going to waste. The future cost to maintain these buildings will only increase exponentially. For example, 12 of the armory's have roofs that need to be replaced or repaired and are now leaking. There are 23 underground oil tanks or fuel tanks that should have been removed prior to 1991. I believe the law says that they shall be removed prior to 1998. These, ladies and gentlemen, are not little problems but we have to start somewhere.

The project that is before you will only correct the deficiencies in one armory. It is one of four projects in the entire United States that has been approved for federal matching funds. The project will cost \$1.68 million. The State of Maine being asked to spend \$542,000.

This public building was constructed in 1941 and it needs extensive repairs to the roof, walls, the heating and ventilation systems. It does not meet life safety standards. It is not accessible to disabled people. It contains flammable asbestos and an underground fuel tank. The building houses a heavy construction company, this company needs additional space to work on its equipment so they can meet their federal training commitment. This project also includes a 13,000 square foot addition. Removal of the underground fuel tank, asbestos abatement, correcting current building safety code violations, energy conservation improvements and handicap accessibility. If we fail to provide for this construction repair the National Guard, I am sure, will limp along. But, what bothers me mostly is that the underground fuel tank will still be there. It is only a short distance from the Little Androscoggin

River, the roof will still leak, the workplace violations will still exist and the building will still be inaccessible to a large portion of our population.

Frankly, we would not allow private employers to operate with similar work site conditions, as we allow these state employees to work.

This building is also used by other programs and agencies. Weekly, the Maine Department of Labor processes unemployment claims here for approximately 200 to 300 Maine citizens. The Department of Defense and Veteran Services uses space in the building. The Progress Center, a local non-profit agency which provides day programs for mentally disabled people is also in the building. This is one of those community based programs that is necessary to complete the closure of Pineland Center.

As the Norway Armory continues to deteriorate alternative space will have to be found for these programs.

As Representative Kerr said, this project is not new but we have to make a commitment now or turn the money back to the federal government so that they can offer it to another state.

This project has the support of the federal government, one of only four such projects in the nation, the executive, and the unanimous support of the Committee on Legal and Veterans Affairs and the 4,000 members of the Maine National Guard and their families, your neighbors. It is a worthy, worthy project and I hope you will please support it.

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

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I didn't think I was going to have to rise on this issue but I guess maybe I should give you my background on what I think has taken place in the past.

First of all, we are in a real tight crunch for money this year. I don't think we should be spending Rainy Day money on armories. If the National Guard is such a worthy organization then I think the National Guard should take care of their own house, they go out looking for projects for other communities to do. I think they should take care of their own. I am sure that if they need some money the local community will be more than happy to help them. I don't believe that this is the type of project or the type of place we should be spending our money. We have no guarantee that two years from now that that armory will be in existence. This is peace time. There is no reason why we should spend those dollars.

I say to you follow the light of the good Chairman of the Appropriations Committee, vote against this.

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

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to repeat what Representative DiPietro just said or what Representative Kerr just said. I am a supporter of the National Guard, but this is the wrong year for this. I intend to follow Representative Kerr's light and vote against the project.

The SPEAKER: The Chair will order a vote. This being an emergency measure, a two-thirds vote of all the members of the House being necessary.

A vote of the House was taken.

Representative DONNELLY of Presque Isle requested a roll call on passage to be enacted.

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

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

Representative DONNELLY of Presque Isle moved that this matter be tabled pending enactment and later today assigned. (Roll Call ordered)

Representative JACQUES of Waterville requested a roll call on the motion to table.

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 Donnelly of Presque Isle that L.D. 372 be tabled pending enactment and later today assigned. All those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL NO. 27

YEA - Aikman, Ault, Bailey, Barth, Carleton, Chick, Clukey, Cross, Damren, Dexter, Donnelly, Dunn, Gerry, Gooley, Greenlaw, Guerrette, Hartnett, Heeschen, Jones, S.; Joy, Joyce, Joyner, Kilkelly, Kneeland, Labrecque, Lane, Libby JD; Lindahl, Lumbra, Madore, Marshall, Marvin, McAlevey, McElroy, Nass, Nickerson, Paul, Peavey, Pendleton, Pinkham, Plowman, Reed, G.; Robichaud, Savage, Simoneau, Stedman, Stone, Taylor, Thompson, Treat, True, Tufts, Underwood, Waterhouse, Whitcomb, Winglass, Winsor, Yackobitz.

NAY - Adams, Ahearne, Benedikt, Berry, Bigl, Bouffard, Brennan, Buck, Bunker, Cameron, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gould, Green, Hatch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kontos, LaFountain, Layton, Lemaire, Lemke, Lemont, Libby JL; Look, Lovett, Luther, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Perkins, Poirier, Poulin, Pouliot, Povich, Reed, W.; Rice, Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Sirois, Spear, Stevens, Strout, Townsend, Tripp, Truman, Tuttle, Tyler, Volenik, Watson, Wheeler, Winn.

ABSENT - Birney, Campbell, Chartrand, Gieringer, Martin, Mayo, Ott, Shiah, Vigue, The Speaker.

Yes, 58; No, 83; Absent, 10; Paired, 0; Excused, 0. 58 having voted in the affirmative and 83 in the negative, the motion to table did not prevail.

Subsequently, Representative DONNELLY of Presque Isle withdrew his request for a roll call on 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. 44 voted in favor of the same and 92 against and accordingly

the Bill failed of passage to be enacted. Sent up for concurrence.

Mandate

An Act to Expand the Boundaries of the Presque Isle Water District and the Presque Isle Sewer District (H.P. 260) (L.D. 362) (C. "A" H-32)

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. 119 voted in favor of the same and 14 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Allow Off-duty Police Officers to Work in Retail Stores That Are Licensed to Sell Alcoholic Beverages (H.P. 69) (L.D. 105)

An Act to Allow the Maine Human Rights Commission to Request the Cooperation of the Bureau of Consumer Credit Protection in Enforcing the Fair Credit Extension Laws (H.P. 104) (L.D. 139) (C. "A" H-41)

An Act Relating to the Conferral of Degrees by the Research Institute for Mathematics (H.P. 128) (L.D. 176) (C. "A" H-31)

An Act to Permit Full-time Deputies To Hold Local Public Office (H.P. 138) (L.D. 186) (C. "A" H-36)

An Act to Allow Municipal Officials to Approve the Use of Flashing Lights by Fire Department Members (H.P. 173) (L.D. 221) (C. "A" H-26)

An Act to Credit Incineration of Used Tires as Recycling (H.P. 278) (L.D. 382) (C. "A" H-37)

An Act to Make Certain Housekeeping Changes to the Banking Code Regarding Hours of Operation, Closing during Emergencies, the Publication of Reports of Financial Condition and the Maturity of Credit Lines (H.P. 358) (L.D. 478) (C. "A" H-28)

An Act to Extend the Duration of Workers' Compensation Health Benefit Pilot Projects (H.P. 375) (L.D. 510) (C. "A" H-42)

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.

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

On motion of Representative CHIZMAR of Lisbon, the House adjourned at 12:05 p.m., until 9:30 a.m., Wednesday, April 5, 1995.