

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
30th Legislative Day
Thursday, April 6, 1995

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

Prayer by the Reverend Scott Jones, All Souls Universalist Church, Oakland.

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

The Journal of yesterday was read and approved.

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act to Allow Election Officials to Request Identification from Prospective Voters" (H.P. 251) (L.D. 353) which was passed to be engrossed as amended by Committee Amendment "A" (H-43) in the House on March 30, 1995.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in non-concurrence.

On motion of Representative NADEAU of Saco, the House voted to Recede.

On further motion of the same Representative, the Bill was recommitted to the Committee on Legal and Veterans Affairs in non-concurrence and sent up for concurrence.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills and Resolves 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:

Criminal Justice

Bill "An Act Relating to the Training and Certification of Law Enforcement Officers" (EMERGENCY) (H.P. 873) (L.D. 1228) (Presented by Representative DAGGETT of Augusta) (Cosponsored by Representative: KONTOS of Windham, Senator: STEVENS of Androscoggin)

Bill "An Act to Provide for a 10-Year License Suspension of Any Person Having 4 or More Operating-under-the-influence Convictions" (H.P. 876) (L.D. 1231) (Presented by Representative GERRY of Auburn) (Cosponsored by Representatives: DAVIDSON of Brunswick, DEXTER of Kingfield, KILKELLY of Wiscasset, Senator: PARADIS of Aroostook)

Bill "An Act to Amend the Maine Criminal Code to Ensure Fairness in Classifying a Crime Based on the Value of Loss or Damage" (H.P. 897) (L.D. 1234) (Presented by Representative CLUKEY of Houlton) (Cosponsored by Representatives: CLARK of Millinocket, JOHNSON of South Portland, THOMPSON of Naples) (Submitted by the Department of the Attorney General pursuant to Joint Rule 24.)

Bill "An Act to Transfer Juvenile Correctional Functions to the Department of Human Services" (H.P. 880) (L.D. 1235) (Presented by Representative BRENNAN of Portland) (Cosponsored by Representatives: FITZPATRICK of Durham, MORRISON of Bangor)

Human Resources

Resolve, to Establish the Commission to Evaluate and Reduce Medical Paperwork (H.P. 877) (L.D. 1232) (Presented by Representative BENEDIKT of Brunswick) (Cosponsored by Representatives: FITZPATRICK of Durham, HATCH of Skowhegan, WINGLASS of Auburn, WINN of Glenburn, Senators: BUSTIN of Kennebec, PARADIS of Aroostook)

Labor

Bill "An Act Concerning Educational Technicians" (H.P. 875) (L.D. 1230) (Presented by Representative MORRISON of Bangor) (Cosponsored by Representatives: CLOUTIER of South Portland, JOSEPH of Waterville, LEMAIRE of Lewiston, Senator: ESTY of Cumberland)

Resolve, to Establish a Task Force to Identify the Part-time Workforce in the State (H.P. 872) (L.D. 1227) (Presented by Representative CHASE of China) (Cosponsored by Representative TUTTLE of Sanford and Representatives: GATES of Rockport, HATCH of Skowhegan, KONTOS of Windham, LEMAIRE of Lewiston, SAMSON of Jay, TOWNSEND of Portland, TREAT of Gardiner, Senator: RAND of Cumberland)

Marine Resources

Bill "An Act to Amend the Laws Pertaining to the Selling of Clams and Sea Urchins to Protect Certified Sellers of Clams and Sea Urchins" (H.P. 871) (L.D. 1226) (Presented by Representative LOOK of Jonesboro) (Cosponsored by Representatives: BIGL of Bucksport, CAMERON of Rumford, CAMPBELL of Holden, CROSS of Dover-Foxcroft, HARTNETT of Freeport, Senators: LORD of York, RUHLIN of Penobscot, STEVENS of Androscoggin)

State and Local Government

Bill "An Act to Create the Emergency Management Advisory Board" (H.P. 874) (L.D. 1229) (Presented by Representative KILKELLY of Wiscasset) (Cosponsored by Representatives: AHEARNE of Madawaska, BAILEY of Township 27, BARTH of Bethel, CROSS of Dover-Foxcroft, DEXTER of Kingfield, DRISCOLL of Calais, HICHBORN of Lagrange, SAMSON of Jay, TYLER of Windham, WHEELER of Bridgewater, WINGLASS of Auburn, Senators: CASSIDY of Washington, STEVENS of Androscoggin)

Transportation

Bill "An Act Concerning License Plates for Firefighters" (H.P. 870) (L.D. 1225) (Presented by Representative NADEAU of Saco) (Cosponsored by Representatives: BUCK of Yarmouth, FISHER of Brewer, GAMACHE of Lewiston, MADORE of Augusta, NASS of Acton)

Bill "An Act to Provide Uniform Weight Limits for Public Ways in the State" (H.P. 878) (L.D. 1233) (Presented by Representative STEDMAN of Hartland) (Cosponsored by Representative: JONES of Pittsfield)

ORDERS

On motion of Representative LEMKE of Westbrook, the following Joint Resolution: (H.P. 881) (Cosponsored by Representatives: AHEARNE of Madawaska, AIKMAN of Poland, AULT of Wayne, BAILEY of Township 27, BARTH of Bethel, BENEDIKT of Brunswick, BIGL of Bucksport, BOUFFARD of Lewiston, BUCK of

Yarmouth, BUNKER of Kossuth Township, CAMERON of Rumford, CAMPBELL of Holden, CARLETON of Wells, CHICK of Lebanon, CHIZMAR of Lisbon, CLARK of Millinocket, CLOUTIER of South Portland, DAVIDSON of Brunswick, DESMOND of Mapleton, DEXTER of Kingfield, DONNELLY of Presque Isle, DRISCOLL of Calais, FARNUM of South Berwick, FISHER of Brewer, FITZPATRICK of Durham, GAMACHE of Lewiston, GATES of Rockport, GERRY of Auburn, GOOLEY of Farmington, GOULD of Greenville, GREEN of Monmouth, GREENLAW of Standish, GUERRETTE of Pittston, GWADOSKY of Fairfield, HARTNETT of Freeport, HATCH of Skowhegan, HICHBORN of Lagrange, JONES of Bar Harbor, JOSEPH of Waterville, JOY of Crystal, JOYNER of Hollis, KEANE of Old Town, KERR of Old Orchard Beach, KILKELLY of Wiscasset, KNEELAND of Easton, KONTOS of Windham, LaFOUNTAIN of Biddeford, LANE of Enfield, LAYTON of Cherryfield, LEMAIRE of Lewiston, LEMONT of Kittery, LIBBY of Buxton, LINDAHL of Northport, LUMBRA of Bangor, MADORE of Augusta, MARSHALL of Eliot, MARTIN of Eagle Lake, McALEVEY of Waterboro, McELROY of Unity, MITCHELL of Vassalboro, MORRISON of Bangor, MURPHY of Berwick, NADEAU of Saco, NASS of Acton, NICKERSON of Turner, O'GARA of Westbrook, O'NEAL of Limestone, PERKINS of Penobscot, PINKHAM of Lamoine, PLOWMAN of Hampden, POIRIER of Saco, POULIN of Oakland, POULIOT of Lewiston, POVICH of Ellsworth, REED of Falmouth, RICHARDSON of Portland, ROBICHAUD of Caribou, ROSEBUSH of East Millinocket, ROWE of Portland, SAMSON of Jay, SAXL of Bangor, SAXL of Portland, SIMONEAU of Thomaston, SIROIS of Caribou, STEDMAN of Hartland, STEVENS of Orono, STONE of Bangor, STROUT of Corinth, TAYLOR of Cumberland, THOMPSON of Naples, TRIPP of Topsham, TRUE of Fryeburg, TUFTS of Stockton Springs, TUTTLE of Sanford, TYLER of Windham, UNDERWOOD of Oxford, VOLENIK of Sedgwick, WATERHOUSE of Bridgton, WATSON of Farmingdale, WHEELER of Bridgewater, WHITCOMB of Waldo, WINGLASS of Auburn, WINN of Glenburn, WINSOR of Norway, YACKOBITZ of Hermon, Senators: ABROMSON of Cumberland, AMERO of Cumberland, BEGLEY of Lincoln, BUTLAND of Cumberland, CAREY of Kennebec, CARPENTER of York, GOLDTHWAIT of Hancock, HANLEY of Oxford, HARRIMAN of Cumberland, KIEFFER of Aroostook, LAWRENCE of York, LORD of York, MILLS of Somerset, PENDEXTER of Cumberland, RAND of Cumberland, SMALL of Sagadahoc, STEVENS of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

**JOINT RESOLUTION MEMORIALIZING THE STATE OF GEORGIA
TO AID IN EXPEDITING THE RETURN OF THE BATTLE FLAG
OF THE 17TH MAINE VOLUNTEER REGIMENT**

WE, your Memorialists, the Members of the One Hundred and Seventeenth Legislature of the State of Maine, now assembled in the First Regular Session, most respectfully present and petition the Governor and the General Assembly of the State of Georgia, as follows:

WHEREAS, the Atlanta Historical Society is in possession of the battle flag of the 17th Maine Infantry Regiment and has been urged since 1992 by curators of the State of Maine to expedite the flag's return to its rightful place in Maine; and

WHEREAS, the battle flag, issued in February 1864 by the merchants of Portland, Maine to replace the then-current battleworn flag, was carried with great valor and honor in the Wilderness, Spotsylvania, Cold Harbor and final Virginia campaigns and was never surrendered on the battlefield; and

WHEREAS, subsequent to the final scenes of the Civil War at Appomattox, the "Merchant's Flag" was

brought home and placed in the possession of the State of Maine and never legally left the State; and

WHEREAS, it is only honorable that, however the 17th Maine Infantry Regiment's flag came into the possession of the Atlanta Historical Society Museum, it should be returned forthwith to the State of Maine; and

WHEREAS, the State of Maine set a national example by being the first state of the Union to return all of its captured battle flags as an act of reconciliation; it was a Maine soldier, Major General Joshua L. Chamberlain, who ordered a salute of honor to the defeated Army of Northern Virginia on April 12, 1865; and it was a Georgia soldier, Lieutenant General John B. Gordon, who returned that gracious gesture, "honor saluting honor"; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request the State of Georgia to expedite the immediate return of the 17th Maine Infantry Regiment's battle flag to the State of Maine; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable Zell Miller, Governor of the State of Georgia, and to the President of the Senate and the Speaker of the House of the State of Georgia, to be transmitted through them to the General Assembly and the People of the State of Georgia.

Was read.

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

Representative LEMKE: Mr. Speaker, Ladies and Gentlemen of the House: There are some issues which are so important that they should not be diminished by political speech. I will not make that speech today.

What we have before us is a question of simple honor of doing the right thing.

I would like to read into the Record, much more eloquent testimony than I could make, by John W. Haley, who was a Private in the 17th Maine Regiment. Which, on April 6, this very day, almost the very hour at a little place called Sayler's Creek in Virginia, fought what turned out to be the last battle of the Civil War in Virginia.

At that battle it was the 17th Maine, among other regiments, which broke the line of what was left of Lee's army. When the day was over there were 8,000 prisoners — 9 Generals, artillery, the whole thing. But, it is something about Maine, the way Haley wrote about the days experience. He said, "Although elated by the degree of success, I was so tortured that I could truthfully say there is nothing in the world that gives me joy."

The pleasure and exhilaration of this day's work were not shared by this writer. I kept losing ground so that by sunset I was at least four miles in rear of the column and with no more idea of the whereabouts of my regiment than I had of what Queen Victoria ate for breakfast this morning. I plodded along as best I could, hoping to get some clue as to direction they had gone. Luckily, for me, I encountered a body of engineers from our corps. As they moved more leisurely and the night was cool I was able to keep up, arriving at Corps Headquarters about 10 o'clock. The officers had chosen a large house just over a stream called Sailor's Creek. In the rear of the house are 2,000 Rebel prisoners, among them General Ewell and several generals of lower grade. The prisoners go in and out as they please, seeming much more jolly than their captors.

There is no fear of their escaping, for it is useless for them to return to their own army. With us they have something to eat. As for going home, many are hundreds, even thousands, of miles from home and they are too weak to walk far.

Destruction and starvation are on one hand, surrender on the other. Still, many cling to General Lee with child-like faith."

It is so typical of Maine, the concern and lack of exaltation over a victory in the field that Private Haley represented in his words, the words of a simple man which are much more eloquent than those of college professors.

I urge you to vote for this Resolution.

Subsequently, was adopted and sent up for concurrence.

On motion of Representative HICHBORN of Lagrange, the following Order: (H.O. 19)

ORDERED, that Representative Paul Chartrand of Rockland be excused April 4 and 5 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Joseph D. Driscoll of Calais be excused March 28 to 30 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative F. Thomas Gieringer, Jr. of Portland be excused March 21, 23, 28 and April 4 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Carol A. Kontos of Windham be excused March 14 and 16 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative J. Elizabeth Mitchell of Portland be excused April 6 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative David C. Shiah of Bowdoinham be excused March 30 to April 4 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Elizabeth Townsend of Portland be excused March 23 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Marc J. Vigue of Winslow be excused April 3 to 10 for personal reasons.

Was read and passed.

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

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the following members of the Lewiston High School Hockey Team, who are the State Class A Hockey Champions: Jeff Alexander, Jason Auger, Bill Bergeron, Derek Castonguay, Russell Chapman, Chris Dube, Corey Gagnier, Randy Geoffroy, Randy Gervais, Marc Gosselin, Greg Hamann, Steve Johansen, Katie Lachapelle, David Langlois, Tom Langlois, John Lauziere, Jonathan Leino, Andrew Sangalang, John Shields and Brian Watson, and Coach Thomas LeBlond, Statistician Rachel Martin, Manager Kelly Madore, Assistant Coach Mark Laliberte and Athletic Director Fern Masse. We extend our congratulations and best wishes; (HLS 181) by Representative POULIOT of Lewiston. (Cosponsors: Representative RICKER of Lewiston, Representative LEMAIRE of Lewiston,

Representative GAMACHE of Lewiston, Representative BOUFFARD of Lewiston, Senator BERUBE of Androscoggin, Senator CLEVELAND of Androscoggin)

On objection of Representative LEMAIRE of Lewiston was removed from the Special Sentiment Calendar.

Was read.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative Lemaire.

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: It is a special privilege for me to address this Sentiment to the Lewiston High School Hockey Class A Championship team. I am a teacher in Lewiston and I am also an avid hockey fan. As you know, or if you don't know, Lewiston is known as the City of Champions. There may be some in the House who wish to debate this, but I have the mike.

Men and women of the House, Lewiston has won 16 Class A Championships since the mid '40's. Amazingly, Tom LeBlond coach of the team, has won four championships just out of the last six. Congratulations Tom.

Tom could not have done this without an excellent hockey team. The team should take great pride in this accomplishment. I would be remiss in not congratulating the cheerleaders, who have done well in regional and state-wide competitions. Judy Abbot, who is their coach is a co-teacher, a friend, a constituent and had my daughter in school.

Men and women of the House, please join me and the Lewiston Delegation in extending a warm legislative welcome and congratulations to the 1995 Maine State Class A Champions from Lewiston.

Subsequently, was passed and sent up for concurrence.

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative NADEAU from the Committee on Legal and Veterans Affairs on Bill "An Act to Require the Use of the Process of Forcible Entry and Detainer in Eviction of Mobile Home Owners and Tenants" (H.P. 256) (L.D. 358) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-73)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-73) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, April 11, 1995.

Ought to Pass as Amended

Representative NADEAU from the Committee on Legal and Veterans Affairs on Bill "An Act to Establish a Minimum Percentage Markup for Alcoholic Beverages" (H.P. 276) (L.D. 380) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-74)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-74) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, April 11, 1995.

Ought to Pass as Amended

Representative AHEARNE from the Committee on State and Local Government on Bill "An Act to Clarify Law Enforcement Relating to Junkyards and Automobile Graveyards" (H.P. 427) (L.D. 590) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-75)

Report was read and accepted. The Bill read once.

Committee Amendment "A" (H-75) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, April 11, 1995.

Divided Report

Majority Report of the Committee on **State and Local Government** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-69) on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Direct Popular Election of Constitutional Officers (H.P. 113) (L.D. 148)

Signed:

Senators: AMERO of Cumberland

Representatives: CARPENTER of York

LANE of Enfield

SAVAGE of Union

ROBICHAUD of Caribou

YACKOBITZ of Hermon

GERRY of Auburn

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

Signed:

Senator: LONGLEY of Waldo

Representatives: SAXL of Bangor

DAGGETT of Augusta

AHEARNE of Madawaska

LEMKE of Westbrook

ROSEBUSH of East Millinocket

Was read.

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

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

Divided Report

Majority Report of the Committee on **State and Local Government** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-70) on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require the Popular Election of the Attorney General (H.P. 153) (L.D. 201)

Signed:

Senators: AMERO of Cumberland

Representatives: CARPENTER of York

AHEARNE of Madawaska

LANE of Enfield

SAVAGE of Union

ROBICHAUD of Caribou

YACKOBITZ of Hermon

LEMKE of Westbrook

GERRY of Auburn

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

Signed:

Senator: LONGLEY of Waldo

Representatives: ROSEBUSH of East Millinocket

DAGGETT of Augusta

SAXL of Bangor

Was read.

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

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

At this point Speaker Gwadosky resumed the Chair.

Divided Report

Majority Report of the Committee on **Taxation** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-71) on Bill "An Act to Increase the Tax Exemption on Church Properties" (H.P. 284) (L.D. 388)

Signed:

Senators: HATHAWAY of York

FERGUSON of Oxford

CAREY of Kennebec

Representatives:

TRIPP of Topsham

TUTTLE of Sanford

MURPHY of Berwick

SPEAR of Nobleboro

DUNN of Gray

REED of Falmouth

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

Signed:

Representatives: KEANE of Old Town

RICHARDSON of Portland

GREEN of Monmouth

DORE of Auburn

Was read.

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

On further motion of the same Representative, tabled pending her motion to accept the Minority **"Ought Not to Pass"** Report and specially assigned for Tuesday, April 11, 1995.

Divided Report

Majority Report of the Committee on **Agriculture, Conservation and Forestry** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-72) on Bill "An Act to Repeal the Retail Seed Dealer's License" (H.P. 382) (L.D. 517)

Signed:

Senators: CASSIDY of Washington

PARADIS of Aroostook

Representatives: KILKELLY of Wiscasset

KNEELAND of Easton

AHEARNE of Madawaska

SPEAR of Nobleboro

TYLER of Windham

STROUT of Corinth

CROSS of Dover-Foxcroft

DEXTER of Kingfield

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

Signed:

Senator: LORD of York

Representatives: HEESCHEN of Wilton

HICHBORN of Lagrange

Was read.

Representative KILKELLY of Wiscasset moved that the House accept the Majority **"Ought to Pass"** Report.

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

CONSENT CALENDAR

First Day

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

(H.P. 410) (L.D. 567) Bill "An Act Relating to Municipal Clerks Who Chair Boards of Voter Registration" Committee on Legal and Veterans Affairs reporting "Ought to Pass"

(H.P. 377) (L.D. 512) Bill "An Act to Amend the Limitation on Damages in State Tort Claims Actions to Allow for the Accrual of Post-judgment Interest" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-76)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, April 11, 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. 114) (L.D. 289) Bill "An Act to Clarify the Status of Certain Gifts to Legislators under the Governmental Ethics Laws"

(S.P. 206) (L.D. 549) Bill "An Act to Give the State a Right to Appeal from the Denial of a Rule 35 Motion" (C. "A" S-38)

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.

(S.P. 72) (L.D. 160) Bill "An Act to Amend the Laws Pertaining to Governmentally Constructed Jetties" (EMERGENCY) (C. "A" S-36)

On motion of Representative ETNIER of Harpswell, was removed from Second Day Consent Calendar.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-36) was read by the Clerk and adopted. The Bill was assigned for second reading Tuesday, April 11, 1995.

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Increase the Limit on the Extradition Account" (S.P. 53) (L.D. 82) (C. "A" S-33)

Bill "An Act to Reduce the Number of Days a Tenant May Be in Arrears for Rent Payments" (S.P. 76) (L.D. 164) (C. "A" S-28)

Bill "An Act to Ensure Appropriate Resource and Referral Services for Families Needing Child Care" (EMERGENCY) (S.P. 93) (L.D. 233) (C. "A" S-27)

Bill "An Act to Broaden the Crime of Criminal Mischief and to Repeal the Crime of Animal Enterprise Terrorism" (S.P. 204) (L.D. 547) (C. "A" S-39)

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

ENACTORS

Emergency Measure

An Act Regarding the Prohibition against Restaurants with Lounges Serving Meals to Unaccompanied Minors after 9 P.M. (H.P. 38) (L.D. 32) (C. "A" H-44)

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. 131 voted in favor of the same and 5 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

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

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

An Act to Increase the County Share and Change the Name of the Government Operations Surcharge Fund (H.P. 74) (L.D. 110) (C. "A" H-48)

An Act to Allow Municipalities to Dispose of Abandoned Bicycles (H.P. 133) (L.D. 181) (C. "A" H-56)

An Act Concerning the Competitive Bidding Process in Cooperative Projects between the State and the Maine Technical College System (H.P. 151) (L.D. 199)

An Act to Clarify the Law Relating to the Licensing of Accounting Firms (H.P. 232) (L.D. 312) (C. "A" H-53)

An Act to Exempt Individual Retirement Accounts from Attachment (H.P. 304) (L.D. 408) (C. "A" H-55)

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

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

An Act to Allow Restaurants to Sell Liquor on Sunday Mornings (H.P. 239) (L.D. 341) (C. "A" H-45)

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

On motion of Representative AHEARNE of Madawaska was set aside.

Representative AHEARNE of Madawaska requested a roll call on passage to be enacted.

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

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

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: I would pose a question to the Speaker, procedurally, is there any way to hold this until next Tuesday?

The SPEAKER: The Chair would respond that the appropriate motion would be to table this for as many days as one sees fit. The Chair would also remind the good Representative that the motion to table is not debatable.

On motion of Representative STROUT of Corinth, tabled pending passage to be enacted and specially assigned for Tuesday, April 11, 1995. (Roll Call Ordered)

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Wednesday, April 5, 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 (7) **"Ought Not to Pass"** - Minority (6) **"Ought to Pass"** as amended by Committee Amendment "A" (S-40) - Committee on Labor on Bill "An Act to Require the State to Pay Medicare Costs for Retired State Employees and Retired Teachers" (S.P. 71) (L.D. 159)

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

TABLED - April 5, 1995 (Till Later Today) by Representative HATCH of Skowhegan.

PENDING - Acceptance of either Report.

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

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Mr. Speaker, Men and Women of the House: I just did something that I didn't think was possible. I was on the Minority **"Ought to Pass,"** I intentionally moved the Majority **"Ought Not to Pass"** for the simple reason this has been a bill that has been coming back at us over the years, over and over again. It is something that we really need to do.

The problem being is that the financial note on this is almost \$2 million over the biennium.

I would like to say that I will vote opposite my committee, I will not, but I thought that you ought to have the opportunity to vote a yes on this. It is a hard position that a Chair has to take every once and a while to do something that they feel opposite about. It would pick up the Medicare costs for retired state employees and retired teachers.

Having said that I will leave it to you.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Mr. Speaker, I can't leave the full burden of this on Representative Hatch's shoulders, she has done an admirable thing. It certainly is a bill that the state cannot afford at this time whether it is good thing to do or a bad thing to do, we just don't have the monies to provide this.

I want to stand and thank her for the courage that she has displayed in changing her position. Also, I think that I am one of the ones who would be covered under this and I certainly will be voting **"Ought Not to Pass."**

Subsequently, on motion of Representative HATCH of Skowhegan, the Majority **"Ought Not to Pass"** Report was accepted.

HOUSE DIVIDED REPORT - Majority (9) **"Ought to Pass"** as amended by Committee Amendment "A" (H-65) - Minority (4) **"Ought Not to Pass"** - Committee on Human Resources on Bill "An Act to Provide Funding to a Domestic Violence Shelter in Ellsworth" (H.P. 65) (L.D. 101)

TABLED - April 5, 1995 (Till Later Today) by Representative FITZPATRICK of Durham.

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

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

Representative FITZPATRICK: Mr. Speaker, Men and Women of the House: I would urge you to accept the Committee's Majority **"Ought to Pass"** Report to fund the domestic violence organization and shelter in Ellsworth that would serve Hancock County.

We did hear persuasive testimony before the Human Resources Committee on the need for this very valuable service in Hancock County. Clearly, domestic violence is a huge problem across Maine. There are nine existing programs that seem to have the rest of the state covered. The funding for this program would cover the Hancock County area. It would be centered in Ellsworth.

Testimony before the committee clearly came from the local police, local government officials, interested citizens and was very telling, I think for the committee, is there has been a grass-roots effort in Hancock County for a number of years around The Next Step program. There has been heavy local fund raising and a high level of consciousness about this program.

The other nine domestic violence programs receive some funding from the State of Maine. This is the tenth final program and frankly they simply want to come on board, they have a high commitment for local fund raising and grant writing. This would be seed money for the project.

I would ask you to accept the report and let this bill go on to the Appropriations Table.

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

Representative JOHNSON: Mr. Speaker, Ladies and Gentlemen of the House: I, too, support this effort for the funding. The argument that touched me most was that when a person is in trouble and being afflicted by violence within a home, trying to seek a place for help, if it is a great distance away that person is going to be impeded just by the distance involved and they are going to have to suffer within that place they would like to escape, they would want to escape but they cannot because of the distance.

This place in Ellsworth answers the distance problem up in that section of the world of Maine.

I urge your support.

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

Representative POVICH: Mr. Speaker, Colleagues and Friends of the House: Domestic violence is Maine's number one crime problem. Chief Justice Daniel Wathen, when he addressed us some weeks ago said that domestic violence is nearing a new high here in Maine.

When a young woman goes into the busy District Court in Lewiston to get an order that will protect her and her children from an abusive mate she doesn't distinguish between a law enacted by this legislature, the judge, and the inadequacy of the courts — in her view it is one system. Either the law works and she is protected or the law doesn't work and she and her children remain in danger.

The Next Step has been accepted by the other nine domestic violence projects and their coalition for family crisis services as the Domestic Violence Project for Hancock County. Since Spruce Run left Hancock County, The Next Step has filled the void providing more service than ever, up 250 percent in two years.

Virtually the entire Judicial and political system in Hancock County needs The Next Step to continue to provide their valuable services. They know that as for all domestic violence projects around the state The Next Step is a vital working component, advocate and partner throughout the entire Judicial process.

The Department of Human Services needs L.D. 101 to pass in order for the Next Step to receive its fair share of purchase contract services. Without L.D. 101 as enabling legislation The Next Step will never receive DHS money. Our Commissioner of Department of Human Service told me that the citizens of Hancock County have every right to receive equal access to domestic violence services.

Those members of the Appropriations Committee that are familiar with L.D. 101 have told me that the bill deserves its chance to compete on the Appropriations table.

Our Attorney General supports L.D. 101 and urges its passage. He has pledged, and I quote, "To aggressively enforce domestic violence laws and press for passage of legislation to provide more services for abused women." He said, "those efforts are the protection of family values in the truer sense of the word."

We have a good feeling that the bill will be received well by the Chief Executive.

Without passage of L.D. 101 The Next Step will cease operating. Abused women and children from Hancock County will be without this vital protection.

Please vote yes on L.D. 101.

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

Representative BARTH: Mr. Speaker, I would pose a question through the Chair. To anyone who can answer it, what is the fiscal note on this bill?

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

The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative POVICH: Mr. Speaker, Men and Women of the House: The fiscal note is a little over \$91,000. I have some remarks to address to that if I may. I was prepared for the question.

Everyone that is familiar with L.D. 101 has told me that the next step is a good and necessary policy. Please don't allow the note to dictate or negate good policy. Please allow me to try to reformulate the impact of this fiscal note. Everybody I have talked to from both sides of the aisle agrees that the next step is a good and essential project and must be kept alive. If anybody from Appropriations Committee wishes to jump right in and if I get off track or out of line, please do so.

The Bill didn't ever want a specific appropriation but had one. We just want the policy. If Appropriations wishes to give us just 50 cents that would still allow us to receive existing money from the Department of Human Services. They certainly wish to have an appropriation but the if the bill barely survives its evening on the Appropriation Table, I have a very warm feeling that the Commissioner and staff will get together and find additional money within this department — again, this is a speculation on my part but I am comfortable with this.

Next week a larger bill for all of the domestic violence projects comes before the Human Resources from the good Senator from Cumberland, Senator Amero,

this is L.D. 848. If our Bill, this Bill, L.D. 101 passes today and if — I know a lot of if's in this business — if Senator Amero's bill passes then the fiscal note today is moot, it goes away, we don't need it. We will share what the larger bill will receive with the other nine domestic violence projects across the state. If L.D. 101 does not pass today and if Senator Amero's bill passes then The Next Step receives nothing and will receive nothing forever and will close.

I urge you again to please look to the policy and not the note and vote yes on L.D. 101.

Subsequently, the Majority "Ought to Pass" Report was accepted. The Bill was read once. Committee Amendment "A" (H-65) was read by the Clerk and adopted. The Bill was assigned for second reading Tuesday, April 11, 1995.

HOUSE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-66) - Minority (5) "Ought to Pass" as amended by Committee Amendment "B" (H-67) - Committee on Labor on Bill "An Act to Increase the Minimum Wage in Maine" (H.P. 108) (L.D. 143)

TABLED - April 5, 1995 (Till Later Today) by Representative HATCH of Skowhegan.

PENDING - Acceptance of either Report.

On motion of Representative HATCH of Skowhegan, tabled pending acceptance of either Report and specially assigned for Tuesday, April 11, 1995.

HOUSE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (5) "Ought to Pass" as amended by Committee Amendment "A" (H-68) - Committee on Labor on Bill "An Act to Provide a Cost-of-Living Adjustment to Minimum Wage Earners" (H.P. 206) (L.D. 265)

TABLED - April 5, 1995 (Till Later Today) by Representative HATCH of Skowhegan.

PENDING - Acceptance of either Report.

On motion of Representative HATCH of Skowhegan, tabled pending acceptance of either Report and specially assigned for Tuesday, April 11, 1995.

HOUSE DIVIDED REPORT - Majority (11) "Ought Not to Pass" - Minority (2) "Ought to Pass" - Committee on Education and Cultural Affairs on Bill "An Act to Require the Administration of Medication in Schools by Licensed Personnel" (H.P. 348) (L.D. 468)

TABLED - April 5, 1995 (Till Later Today) by Representative MARTIN of Eagle Lake.

PENDING - Acceptance of either Report.

On motion of Representative JACQUES of Waterville, tabled pending acceptance of either Report and specially assigned for Tuesday, April 11, 1995.

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) (Committee on Agriculture, Conservation and Forestry suggested)

TABLED - April 5, 1995 (Till Later Today) by Representative KILKELLY of Wiscasset.

PENDING - Reference.

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

TABLED AND TODAY ASSIGNED

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

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 - April 4, 1995 by Representative HATCH of Skowhegan.

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

Subsequently, the Majority **"Ought to Pass"** as amended Report was accepted. The Bill read once. Committee Amendment "A" (H-50) was read by the Clerk and adopted. The Bill was assigned for second reading Tuesday, April 11, 1995.

SENATE DIVIDED REPORT - Majority (8) **"Ought to Pass"** as amended by Committee Amendment "A" (S-35) - Minority (3) **"Ought Not to Pass"** - Committee on Banking and Insurance on Bill "An Act to Repeal the Prohibition on Prejudgment Attachments in Consumer Credit Cases" (S.P. 124) (L.D. 299)

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

TABLED - April 5, 1995 by Representative JACQUES of Waterville.

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

On motion of Representative CAMPBELL of Holden, tabled pending his motion to accept the Majority **"Ought to Pass"** as amended Report and specially assigned for Tuesday, April 11, 1995.

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 - April 5, 1995 by Representative JACQUES of Waterville.

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

On motion of Representative MITCHELL of Vassalboro, tabled pending the motion of Representative KILKELLY of Wiscasset to accept the Minority **"Ought to Pass"** Report and later today assigned.

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

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 - April 5, 1995 by Representative JACQUES of Waterville.

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

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

Representative AHEARNE: Mr. Speaker, Ladies and Gentlemen of the House: I ask you to reject the Majority **"Ought Not to Pass"** Report and accept the Minority **"Ought to Pass"** Report. This a direct democracy bill. This empowers the people of Maine. We have always strived to involve the people of Maine to become more involved in state government. We should welcome such an initiative.

This Resolution allows citizens to initiate amendments to the Maine Constitution. The process is very clear. First, the number of signatures needed to initiate a Constitutional Amendment by petition must be at least ten percent of the total vote for Governor cast in the last gubernatorial election. The signatures would be validated by the Registrar of Voters and verified by the Secretary of State.

Second, if the Secretary of State verifies the petitions at the next state-wide election, the amendment initiative requires a two-thirds vote of approval by registered Maine voters. If approved by the voters the proposed amendment is submitted to the Legislature for ratification.

At this point I should point out that of the 16 states that allow citizen initiatives to the Constitution, not one has this unique section. This body will vote first, the other body will vote second. Ratification requires a majority votes of the entire membership in both houses.

Forth, and finally, if ratified by the legislature the amendment is presented to the Chief Executive for approval. If the Chief Executive does not support the measure then it will follow the process provided in the Constitution, Article 4, Part 3rd, Section 2 for bills, except that a majority vote of both bodies will approve the measure over the objections of the Chief Executive.

Now these mechanisms, such as the ten percent requirement for signatures, a two-thirds vote of registered voters, legislative approval and Chief Executive approval, will, in my opinion, prevent fringe groups from presenting frivolous amendments to the Constitution.

This bill in itself is direct democracy legislation. It allows greater citizen involvement in our government.

A rejection of this bill will represent a rejection of participation of the people. It will again tell the people of Maine that nothing has changed and the legislature represents special interests and not the people.

I ask you for your support and follow my light to reject the pending motion so we can accept the Minority **"Ought to Pass"** Report.

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

Representative GERRY: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of L.D. 305. This Constitutional Amendment would allow amendments to the State Constitution to be proposed by the citizens through the initiative process. In fact, L.D. 305 would simply extend to the public the courtesy that the Legislature now enjoys. That of being able to begin the process of amending the law of the land.

Currently Constitutional Amendments can only be proposed by a two-thirds vote of the Legislature. Then the citizens must ratify the proposed amendment by a simply majority at the polls. L.D. 305 enables a second method whereby the citizens can begin the process with a two-thirds vote at the polls and the Legislature must then ratify with a simply majority. That is all we are doing here, is simply adding another option for the starting point of an amendment.

Maine is only one of a handful of states that do allow for citizen initiatives and referendum regardless of statutes. But, do not allow its citizens the right to initiate Constitutional Amendments.

Furthermore the proposed Constitutional Amendment before you today, if passed and ratified by the citizens, would put into place the most conservative structure for allowing public access to Constitutional Amendments. No other states require this Legislature to ratify the Citizen Initiative Amendment as Maine would. Those who fear the voters would have you believe that all sorts of tampering would occur if you gave the voters the least bit of access to the Constitution. This is a notion of arrogance. I do not fear the people and this body should not fear them either.

I remind you once again that Maine would by far have the most difficult and the most conservative procedure in the country. Basically what has been said, there have only been 17 states that allow for Constitutional Amendment and most of the other states that allow their citizens to propose Constitutional Amendments they go through the signature process, like what we are trying to implement here, and then if they get enough signatures and qualify it is put on the ballot in two consecutive elections and it needs a simple majority vote in order for it to be enacted. The Legislature has nothing to do with it once it goes out to the people.

This Constitutional Amendment from Maine allows a Legislature after the people have voted at the polls, by two-thirds vote, for us to amend if there is any difficulties in that law that they want to propose.

Also, right now, what we do now is any legislator that comes up with a bill for a Constitutional Amendment it is written and then it is assigned to a committee and then it is held at a public hearing. Some of our Constitutional Amendment hearings don't have a whole lot of Maine citizens in attendance. There are not very many attending, at the public hearings that I have had for Constitutional Amendments. This would allow more of the people of Maine to become part of the process.

So, please vote against this proposed and allow the citizens of Maine to amend the Constitution.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I would just call your attention to a yellow sheet that has been distributed and has a number of points regarding why you should not be in favor of this bill and why you should support the Majority "Ought Not to Pass" Report.

I would particularly call attention to the forth from the bottom. It talks about the fact that there is no mechanism for correcting a poorly drafted Constitutional Amendment. That is one of the major problems. When a citizens initiative comes to us and would come in for a Constitutional Amendment there is no mechanism for the Legislature to rework that to

make sure there are no technical problems, there are no conflicts and you could easily end up in a situation where the Constitution had been amended badly and would need another Constitutional Amendment in order to correct that.

Currently we allow Citizens Initiatives for legislation and if there are problems, technical problems or conflicts with other sections of statute those can be corrected during the committee process and taken a look at, can be rewritten. But, with a Citizens Initiative for a Constitutional Amendment that can't take place.

I think we need to take great care when we are amending the Constitution. Today, in the State of Maine, citizens have incredible access to the Legislative process. I think we should value that but not consider that to be the same when we are looking at a Constitutional Amendment.

I hope you will join the large majority, bipartisan majority, of the committee that agreed that this should not pass.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: I seem to be doing better today when I quote other people. So, I would like to enter this quote which is germane. This is by Edmund S. Muskie, "In Maine we have a saying that there is no point in speaking unless you can improve on silence."

This is for Representative Pouliot.

Ladies and gentlemen, I urge you to support Representative Ahearne and Representative Gerry.

Representative ROBICHAUD of Caribou requested the Clerk to read the Committee Report.

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

Representative AHEARNE of Madawaska requested a roll call on the motion to accept the Majority "Ought Not to Pass" Report.

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

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

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

Representative GERRY: Mr. Speaker, Men and Women of the House: I disagree with the part of the testimony we just heard about how this cannot be amended if there are problems, if it is unconstitutional. After the voters vote on it, if it passes by two-thirds vote, it comes back to the Legislature for their approval. There is nothing that in this that they cannot amend it if they can find a technical error in the proposed Constitutional Amendment.

Also, I want to remind this Legislature that it is very hard to get an initiative on the ballot. Maybe a handful try to do it a year but only maybe one or two succeed. So, even if a person tries to get a Constitutional Amendment to the people for a vote, it is very difficult. It is a very intense process. So, please, consider everything before you vote.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Rosebush.

Representative ROSEBUSH: Mr. Speaker, Men and Women of the House: I urge you to vote with the Majority "Ought Not to Pass" Report. I think it defeats the purpose of why we are sent here. We are here to represent the people of our district. If they want a bill put in we can put the bill in for them.

We are dealing with the Constitution of the State of Maine, a very sacred document as far as I am concerned. We have already had a lot of bills in dealing with the Constitution that basically I feel is something that we are playing with that doesn't need to be played with.

I just urge your support on this L.D..

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: I would ask, as has the good Chair of the Committee, Representative Daggett, that you take a moment to run your eye down the yellow sheet which I requested to be prepared and handed out for you today. Though I do not serve on the State and Local Government Committee, it is a committee I am often before because in the town meetings that we have back where I live and in the district that I represent we have a very vocal turnout and very active people, people who care deeply about what they want to do and about making the world a better place.

It concerns me when we start talking about changing the landscape which is exactly what we are speaking about doing when we open the door to the Constitution of the State of Maine to be amended this way. We are not talking just about changing the landscape, we are not talking about tampering with trees, we are talking about blasting away at the very bedrock that we build things on. If you have no further time than to read a few items, I would suggest you run your eyes toward the bottom of the sheet which indicates clearly that most of the other states that do allow Citizen Initiated Constitutional Amendments distinguish between amendments to the document and total revisions of the total document. This bill before us today does not.

In other words, you could revoke entire pages at a stroke, you could add entire pages at a stroke. Most of the other states that have such provision allowing revisions of the Constitution have set aside certain parts of it which may not be touched, ever. Those usually enumerating individual and collective rights that both the person has versus society. The bill before us has no such thing.

You should be very concerned about that if you are poor or elderly or old or a member of a minority anything — that the majority should decide that you may have all the rights that are good for you by a majority of the them. That is not an idle example. I would point out to you that in the old confederate states of the south in the years that followed the Civil War everybody were subject to changes by the Constitution. That really did happen. Minorities had all the rights that the majority thought were good for them. Need I tell you what color the majority happened to be, need I tell you what color the minority was. Need I tell you what rights the minority had in what they could own for property, who they could marry and when and whether or not they were able to vote, to even change the state as they found themselves in. Those were all real, they all existed, they all happened and it took a century of jurisprudence to overturn that. It was not settled

until the 1960's in the great days of the Civil Rights movement. In some cases it is not settled now.

The tyranny of the majority is the one thing that the Constitution of the United States and the Constitution of Maine was written to protect minority members against because we valued everybody in the society.

Now, when you are not only talking about people but about ideas which may be inserted into the Constitution by a direct vote, I am sure all of us have a few favorite or not so favorite causes that we would like to get at or not have anybody else get at. I will merely use one example and let you find your own. Would you care to see a Constitutional Amendment to the Constitution of the State of Maine banning clear-cutting? Would it happen? Think about it. What end of the state, if one is so inclined to think regionally would you imagine you would get all the signatures you needed in? What end of the state, if you are so inclined to think regionally, do you imagine you would get all your votes in? What end of the state do you imagine, if you are inclined to think regionally, would all the clear-cutting be stopped in? That is precisely the kind of item that could enter the Constitution of the State of Maine by public referendum.

Public passion is exactly what constitutions are devised to prevent from becoming law but to guarantee is given expression. Public passion makes wonderful speeches, makes lousy law, it makes worse Constitutions.

I beg of you, please to vote with the Majority "Ought Not to Pass" Report.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: To my knowledge, I can be corrected, I don't think there is a clear-cutting provision in the State Constitution, that would be a statutory amendment not a Constitutional Amendment.

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

Representative WINN: Mr. Speaker, Ladies and Gentlemen of the House: I plan on voting against this motion and I want to try to clarify why. I basically feel that I have a great deal of faith and belief in the people of the State of Maine. I have been quite impressed over the past couple of years as to the level of common sense that they do have. I do trust them to make decisions, believe it or not, I do have faith in the people.

Specifically, I think that the people of the State of Maine need access to the Constitutional Amendments that they don't already have. I am willing to admit that perhaps this bill is not perfect, L.D. 305 may not be perfect but it allows the people the access. I think that we need to give them and allow them that opportunity and bear in mind that the final approval for it would come from us. It would come back to us and require our support in order for it to become law. I think the primary reason I feel strongly about this is because of something that happened in this body, in this building, a week or two ago. Perhaps some of you remember a lobbyist, a lobbyist by the Maine Education Association, Steve Crouse, had an L.D. to propose an amendment to the Constitution. He was cornering people in front of the glass doors here on the way in the Chamber, to get signatures. I declined to sign it because I didn't like the idea of having a lobbyist collect signatures, especially for

something that would amend our Constitution. A few days later I received what I consider a hate letter from the Maine Retired Teachers Association saying how dare you not sign that L.D. and that you have to commit yourself to support this Constitutional Amendment so that you can say to your concerned constituents that you believe in a protected state retirement system.

Now, for the Record, I will make it clear that I did not vote for that budget that raided the retirement system in the first place because I felt very strongly against doing so. I spoke on the floor against it.

Also, for the Record, I did vote for the amendment for the Constitution in the last legislative session. On the other hand, I don't think it is right just because you have got some union that can afford to have 17 full-time people in an office in Augusta and full-time lobbyist walking around with L.D.'s to amend the Constitution, that those people have a right in access to amending the Constitution and the people that I represent that are working hard at home can't have a vehicle for amending the Constitution. That is basically my concern about this whole issue and why I am voting against this measure.

The SPEAKER: The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Mr. Speaker, Men and Women of the House: I rise in support of the Majority "Ought Not to Pass" Report. I am stretching trying to remember a quote I heard one time. Perhaps the good Representative that spoke before me could remind me — the good Representative from Portland — and that is we have to guard constantly against mobocracy in a democracy. I believe that if we should pass something like this we would be faced with a possible rule by mob, rule by emotion, and there are just too many loopholes in this to even consider it at this time.

I would really urge you to vote with the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Luther.

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: As I look over the yellow sheet passed around by the Representative Adams it tells me that democracy is a very dangerous form of government. I think democracy is a dangerous form of government. But, there is also tyranny by the minority if they get in control of committees and it is just a chance you take when you opt for a democracy.

I am going to vote for this because I think in the end you are either trusting the people or you are not.

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

ROLL CALL NO. 32

YEA - Adams, Aikman, Ault, Barth, Benedikt, Berry, Bigl, Brennan, Bunker, Cameron, Campbell, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, DiPietro, Donnelly, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gooley, Gould, Green, Greenlaw, Guerrette, Hartnett,

Heeschen, Heino, Hichborn, Jacques, Johnson, Jones, K.; Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kerr, Kneeland, Kontos, Labrecque, LaFountain, Lane, Lemaire, Lemont, Libby JD; Libby JL; Lindahl, Lovett, Lumbra, Madore, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Morrison, Murphy, Nadeau, Nass, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Perkins, Pinkham, Plowman, Poirier, Poulin, Povich, Reed, W.; Rice, Richardson, Ricker, Robichaud, Rosebush, Rotondi, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Sirois, Spear, Stedman, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Truman, Tufts, Tuttle, Tyler, Waterhouse, Whitcomb, Winsor, Yackobitz, The Speaker.

NAY - Ahearne, Buck, Dexter, Dunn, Gerry, Hatch, Kil Kelly, Layton, Lemke, Luther, Pendleton, Reed, G.; Simoneau, Underwood, Volenik, Wheeler, Winglass, Winn.

ABSENT - Bailey, Birney, Bouffard, Look, Marshall, Martin, Mitchell JE; Pouliot, Vigue, Watson.

Yes, 123; No, 18; Absent, 10; Paired, 0; Excused, 0.

123 having voted in the affirmative and 18 in the negative, with 10 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

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

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) which was tabled by Representative MITCHELL of Vassalboro pending the motion of Representative KILKELLY of Wiscasset to accept the Minority "Ought to Pass" Report.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I truly regret that this bill is before us today as a divided report. I had hoped that we could in fact hold the bill over until the commission that has been recently appointed on genetic engineering and biotechnology would be able to offer its full report and then take a look at this bill in the context of that report. But that was not agreeable to the committee and a majority of people in fact voted against this bill so I felt compelled to vote for it.

My concern in terms of this particular piece of legislation is not antitechnology. I think it always makes sense for us to move forward and look at all possibilities in terms of whether it is food production or fiber production or anything else that we are doing.

What I am concerned about is when that happens at the exclusion of the end consumer and that is really what this bill is about. This is a consumer awareness bill.

One of the things that has been pointed out by a number of groups is that consumers are becoming more and more aware of what it is that they are eating. They are making different choices than they have made before. You can even look at McDonalds and Burger King and some of the other places and find that they have salad bars and they have low-fat offerings now that they did not have ten years ago. That is because consumers do care about what they eat, they

are making choices. But, they can't make choices if they don't have information. In this case this bill would require that genetically engineered produce would in fact be required to have a label indicating that it was genetically engineered produce.

I would like to read a little bit, please, from a Mayo Clinic health letter, March 19, 1994 titled "Genetically Engineered Food," subtitled, "A modern recipe not even mother nature can create. Beyond the birds and bees. For centuries farmers has selected sowed and harvested seed to grow food. As the breeding of plants evolved so did the quality and variety of food. Traditional cross-breeding has led to more than 250 fruits, vegetables and herbs that Americans regularly eat. Yet, traditional methods take time. Breeders can typically spend ten to twelve years slowly breeding out tens of thousands of genes to capture those that provide desirable traits such as better taste or tolerance to disease. Today genetic engineering is refining traditional plant breeding by adding speed and precision. With advances in the use of molecular biology genetic engineers can select a specific trait in a plant, pinpoint the responsible genes and then alter the genes effect.

My concern is that just as we are a deliberative body and there is a reason for that so that as we have heard in a previous discussion that we don't, in an emotional moment, end up doing something that we will regret in the future. I believe that the process of plant breeding, the process of developing the foods that we eat, the very fuel that makes our body's run is also a process that was expected to be a slower process and that there is a process in which when things do not go well they are weeded out and they are stopped. This is defying that process.

Before our committee, there was a dietitian who spoke and said these foods are perfectly safe, unequivocally safe. It was interesting in the hand-out that I did two days ago, on the fruit flies, there are geneticists who have been studying these issues for their entire careers and when they put a certain gene into a fruit fly that created eyes, they had fruit flies that had 14 eyes, eyes on their legs, eyes on their wings, eyes on their backs, all kinds of places.

The statement in the paper is no one suspected that that gene was so powerful. So, then they took the gene that creates vision in a mouse and they put that into the fly thinking wow, they are so far unrelated we are going from compound eyes to single eyes, this can't be the same. Well, the results were the same. In the article, and I am quoting again, "the implication was inescapable, the mammal gene and the fly gene are so closely related that they almost certainly derive from a common ancestor."

We are talking about significantly changing how food is created and doing it with a self technology that does not allow people to look at that product and know that in fact its entire system has been changed. We are not providing consumers with the opportunity to know that there may be a flounder gene in their tomato from keeping it from freezing; that there may be a firefly gene in their corn to keep it from doing something else. We need to provide information for consumers so that they can make educated choices. If in fact this technology is a technology that consumers accept then they will purchase those products and that is fine. Again, I am not even saying that I wouldn't purchase the

product but I would like to know what it is that I am purchasing.

If this is not something that the public will accept then there are two opportunities here in terms of a free enterprise system. Either the people that are working in this technology can educate the public to come to their point of view or it is not going to happen. Those are the things that will be the result of informing the public about this process.

Again, in summary, this bill would require labeling on products that have been genetically engineered or have had their genes tampered with.

I am concerned about big brother at its worst and most intrusive government making decision about what information people don't really need about the food that they eat. Not only what they don't need but what they will not be able to access.

The article in the Maine Times last week said that Hannaford Brothers would be willing to label genetically engineered produce. If this bill does not pass they may not have the information to in fact put that label up. They, as a retailer, would not know the products that they were purchasing were in fact genetically engineered unless the supplier voluntarily labels them.

One of the final issues that I think is also critically important is what about people who do have religious beliefs that prohibit them from eating some foods? What about people who choose to be vegetarians? We are talking about taking genes from animals and putting them into plants. Should people have an opportunity to make a decision about whether or not they wish to eat those plants.

The FDA hasn't decided yet in terms of the religious issues. So, when you hear that the FDA has signed off completely on this process, remember that they are still in the process of deciding about religious issues and moral issues in terms of whether or not those items need to be labeled.

I hope that you will go along with the Minority "Ought to Pass" on this bill in order to provide our constituents with the information that they need in order to purchase food that is safe for their families and for themselves.

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

Representative KNEELAND: Mr. Speaker, Men and Women of the House: If this bill were to pass it would require all farmers and manufacturers to label any food that has been genetically engineered for food products that contain any genetically engineered material.

For the past eight years of careful research and planning Nature Mark of Island Falls has developed and improved a Russet/Burbank potato that is protected against the Colorado potato beetle. This is the most damaging potato pest in the U.S. today. This potato will reduce farmers dependence on chemical pesticides and decrease the time and cost required to maintain healthy crops during the growing season. At times when this pest is at its height during the season we have to mix as high as three different chemical insecticides together to kill it.

If protein gene used in the potato plant that has been given to provide protection from potato beetle but has no affect on humans, animals, birds or fish. It is not harmful to beneficial insects that help control other potato pests.

The Maine potato farmers want to be able to use this modern tool of biotechnology. The processors,

the potato french fry people all across the United States have signed on to this program and want to use it but our processor in Maine is waiting to see the outcome of this bill. This would be a great tool for us to use in the potato industry and would really save us both time and money.

I ask you to please vote no on the pending motion.

The SPEAKER: The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: I urge the defeat of the pending motion of "Ought to Pass." I say that for many reasons. If a lot of you this winter could have been with some of us up in Aroostook county and had a chance to tour the McCain french fry factory up there you would have had — it was a real eye-opener and you would understand some of the reasons why this is a bad bill.

Can you imagine trying to separate genetically engineered stock the farmers get when they get the potatoes? They get the stock and get them in the ground and then they take them to the processing plant. We witnessed truckloads of potatoes coming in there and being dumped and then they start the process. If you follow the process through, all the way through, and how to keep track of potatoes or whether they were genetically engineered or not would be a real problem. All the way through the cutting processes, the many processes it went through to the packaging, boxing, the freezing — it would just be impossible.

On top of that, who is going to regulate it? Who is going to oversee this? The Department of Agriculture would have a monstrous job on their hands.

I believe it would be appropriate if you remember in the past years we have a voluntary labeling system with the BST in milk. That has worked very well.

If we mandate this to label everything in the marketplace it is going to put a big burden on the grocery chain, processors, farmers, all the way through.

The other thing I would like to mention is that biotechnology is a growing industry in the State of Maine. We do not need to send up a red flag against this growing industry. If we were to pass this legislation Maine would be the only state in the nation, the only state in the nation, that would be singling out products of genetically engineered labeling. I think this would be sending a clear and negative message to the economy of this state and that industry that we were not willing to support it.

I would urge you people of this body to look that it was a ten to three committee recommendation of "Ought Not to Pass" on this. I would urge you to defeat the pending motion on the floor of "Ought to Pass" and go with the Majority Report.

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

Representative CHASE: Mr. Speaker, I would pose a question through the Chair. My constituents have been calling me asking what would be the problem with informing them of genetic engineering and I would like to ask that question of any of the committee members or proponents of the Majority Report. What is the red flag?

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

The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, Men and Women of the House: To answer the question, I spoke previously here just about potatoes, but it can go with any other food product. Take for example tomatoes. There is a flavor-saver tomato coming out that is biogenetically engineered. So, if you tried to follow some of those tomatoes that were part of spaghetti you find — or any other processed food that has parts of that product in that food how can you follow that all the way through. The same way with potatoes, can you tell if they were just in potato chips, which ones were processing for Humpty Dumpty and some of them were in packages and some were not. It would be an almost impossible process to follow the product all the way through to these many processed foods that it might go into.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: As I said at the beginning of my statement, that I really do regret that this bill before us is a divided report. I understand the concern of folks who are interested in using this potato and I am empathetic to that and wish that we could have held it off.

My concern is that this bill is not just about potatoes and it is not just about tomatoes. If we do not require some kind of labeling then we have basically left open the gate for any type of genetically engineered product to be sold in this state. As I said, this is self technology. The proponent will acknowledge if you can hold a potato in one hand and in the other hand one of them is genetically engineered, you cannot tell the difference.

The decision that we need to make today is a decision for all of our constituents, all 8,000 plus people that have depended on us to help make decisions up here. We are making a decision that this is information that they don't need, that this is information, worse, that they can't get.

I would urge you to vote with the minority.

The SPEAKER: The Chair recognizes the Representative from Norridgewock, Representative Meres.

Representative MERES: Mr. Speaker, Ladies and Gentlemen of the House: I would like to take a moment here to talk to you because not only am I supportive of business, I am also a parent. I think that if you ask me my priorities being a parent comes first before anything I am doing down here. I happen to be a parent of six children, two of whom have been extremely sick during parts of their life. I have a daughter that is (she is better now) a severe asthmatic. And, I have a son, when he wound up in college found out he had extreme allergies to caffeine. Both of these kids have been in positions where they have been in the hospital and severely sick. The point I am trying to make is that as a parent of children that have had extreme problems with foods that have created an issue where they have become sick, I can tell you that is a very scary and frustrating place to be.

My son who had problems with caffeine had a hard time because he could not figure out for the life of him exactly every type of food that had caffeine in

it and he wound up making wrong choices. You would be surprised at the things that can make you sick.

My sense is that there are a minority of people in this state and in the country that need to know what their children are eating, what they are consuming, because it is life threatening.

I would be very very concerned about any product that where you had no ability to find out what was in that product that could affect your health. I have been there, I know the problems and I would say that when we are considering this I have no problem with the product, I have no problem with the technology, I have no problem with the business aspects but I do want you to consider the portion of this population whose lives depend on knowing what they are eating and how serious it is for them.

The SPEAKER: The Chair recognizes the Representative from Dover-Foxcroft, Representative Cross.

Representative CROSS: Mr. Speaker, Ladies and Gentlemen of the House: In regard to this bill up to this point we have had some fliers go around and play around with the fruit fly and what this kind of genetic engineering does to fruit flies. As far as I know we aren't talking about fruit flies, we are talking about food. This food that has been genetically engineered has probably had thousands and thousands and thousands of studies because it couldn't get on the market unless it had an approval.

Along with this idea we have talked about in regard to why we do it and why we don't one of the detriments in regards to why we don't want it passed is the cost. I have talked to the Merchants Association, grocery associations, the whole thing, the cost to mark all the products that are being genetically engineered would probably eliminate a big share of those products from being on the shelves for people to buy. That cost alone, when at this time we are supposed to be helping business to increase jobs, to create an atmosphere where everybody will be better off. It seems to me ridiculous that a Minority Report would be accepted.

I ask you to reject the "Ought to Pass" and vote "Ought Not to Pass" as the committee so voted.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Marshall.

Representative MARSHALL: Mr. Speaker, Colleagues of the House: There is an aspect of this that hasn't been brought up and I am somewhat of a skeptic on some of the genetic engineering going on. However, I am a small time farmer myself. I raise a fairly large garden and sell some of it. I have tried to grow potatoes in the last few years and about all I have been able to do is feed the potato bugs. The chemicals that nobody seems to like but you have to use to grow potatoes — some of these chemicals the potato bugs are starting to devour with relish. One in particular is Seven, it used to be very effective on potato bugs and now they kind of enjoy it.

So, you are stuck with some of the more severe chemicals to try to preserve your potatoes and we are almost getting to a situation where if we can come up with a genetically engineered potato that the bugs don't like or that keeps the bugs away we will have a situation where we don't have to put pesticides on the potatoes in large quantities and maybe this alone is sufficient to outweigh the skeptics or dangers, potential dangers, of the genetically engineered potato.

I would ask that you think about this carefully and think about it in a balanced state. You know, do you want a potato that you can just grow without pesticides or do you want a potato that you are going to have to put them on by the ton?

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

Representative BUCK: Mr. Speaker, I have a question for the Speaker, could someone read the Committee Report for the rest of us.

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

The SPEAKER: The Chair recognizes the Representative from Pittston, Representative Guerrette.

Representative GUERRETTE: Mr. Speaker, Ladies and Gentlemen of the House: I just want to make a couple of quick points. For me this is a jobs bill. I just got done reading a letter that was from a company that wants to bring jobs to Maine and wants to produce a variety of potatoes that they will sell throughout the country and create jobs for Maine people. Maine people, Maine children, need Maine jobs. We need to vote for opportunity for our children and for our future.

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: I am rising in support of the Minority Report to pass this bill. For two reasons primarily; one is that this is not a bill debating the merits of this technology or not. It is a bill about labeling and informing the public about their foods.

The second reason is there is clearly need for more education about this technology. Just from the debate in this chamber today and the debate in the committee room and the debate in the public press it is clear that most of us know very little about this technology. I ask you why that is so? The reason it is so is because the industry promoting this has not taken the time to spend the time educating all of us about the merits of this technology.

I myself, don't know enough about it to know if it is something that I would like in my food or not but I would like to learn more about it. I think a lot of people in the public would — I have gotten a lot of calls on this issue on both sides of the question.

It is clear the only way the public will learn more is if the industry promoting it steps forward and joins that debate and doesn't let it only be dominated by the opposition to these products. The only way the industry will be forced to take that position is if foods are so labeled so the public can begin to question this type of food and learn why it might be better for them if it is.

This indeed can be a jobs bill if the industry steps forward and lets us know why the advantages of this food are such that we should buy it.

I think this may be the results if we let the foods be labeled.

I don't think the cost issue of labeling is very significant either. We have seen many products that once they are more acceptable by the public because of a new label the industry does not hesitate at all to put a label on that might increase the sales of their product. It can be done very quickly if profit is the motive. I think it may in fact be the end result of this labeling if we let it go forward.

Otherwise, we are going to continue be in mystery whether this is good for us or not, whether people should buy these foods and in fact which foods are biogenetically engineered.

I myself am in the food industry and have labored under a label like this for the past eight years. Most of the products I sell contain sulfites. When this law as first passed by the FDA I, too, did not like the fact that I would have to admit to the public that my foods had something in them that might possibly be something they didn't want to eat. But, in the past eight years I have learned from thousands of conversations with people that once they learn the facts they in fact don't mind having some things in their food that they know about. I believe now that it was a good step for all of us to put this kind of labeling on to foods so that the public could make their own choice and learn more about it.

I think that is what will happen with these foods if we are not afraid to take the step of being honest with the public about the foods they eat.

I urge you to vote in favor of passing this bill.

Representative DONNELLY of Presque Isle moved that the Bill and all accompanying papers be indefinitely postponed.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: Why I move indefinite postponement — I think the good Representative who just spoke made some good points. One, there is labeling on other items and that is good. I think the points that have been made about educating people are valid. I also think the key component to the discussion that has been so far that has been done by the FDA. It has been a nation-wide labeling requirement. It has been something that has not put the State of Maine at a competitive disadvantage in these industries to our very strong competitors in the Midwest and west.

We talked about children. The vision I have for the children of Maine is that they will be able to grow up and get jobs here.

Representative Guerrette referenced a letter that I received just the other day about a company that visited here and we had discussions, he met with the Aroostook delegation, he met with us and he was talking about creating new jobs. I would just read a couple of sentences out of his letter. "I know this isn't a popular thing to do but our goal is to introduce new varieties, resistant to blight and the golden nematode" (I am sure I will get made fun of because I pronounced that wrong) "as well as a high resistance to various diseases. These varieties are presently being exported from Holland, to Latin America and we are looking forward to the possibility of developing these varieties in your state and then be able to export them off-shore to Latin America."

What a horrible thing to create jobs in Maine. This is the kind of legislation that discourages forward-thinking companies like this from coming here. We have the natural resource base that needs to be developed. We have the people that want to work and we will do things like this that put us at a competitive disadvantage continuously.

Knowledge on these industries is limited. I will frankly admit right here that I don't know the whole process of growing a potato without genetically engineering.

I don't know everything about what they do with the seed and everything they do in the field or everything they do in the potato house.

I imagine there are a lot of us here today that don't know everything about everything we eat. We can all go to the college in Orono and take our Ag degree and learn more about that if we wish to.

I guess I just once again would encourage you to vote for indefinite postponement and think about this as a whole issue. Maine is not an island unto itself, we are part of a nation, we have an FDA which is pretty strict. I don't remember having read or seeing too many items where they say the FDA has been to lenient on companies and required them to come forward with things too quickly. Normally they slow the process down and take a good thoughtful look at it, and they are doing that and they have not approved this yet. I think we are jumping the gun. If you feel that we need to be labeling I would request that the proponents of this bill would write the FDA a letter and express their opinions.

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

Representative TOWNSEND: Mr. Speaker, I would like to pose a question through the Chair. My question is for Representative Donnelly. If I was listening carefully I thought I understood the letter to say that the potential employer plans to grow a product here and export it to Central America. What is not clear to me is why labeling that product, if sold in Maine, would prevent him from exporting it to Central America?

The SPEAKER: Representative Townsend of Portland has posed a question through the Chair to Representative Donnelly of Presque Isle, who may respond if he so desires.

The Chair recognizes that Representative.

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I think Representative Kneeland in his speech had indicated the difficulty. Most farms don't sell to one producer, they don't sell to one factory or one area. For them to differentiate one line of rows from another line of rows on which ones are the genetically engineered potato as to the other is nearly impossible. What you wind up doing is funneling farmers where they have only one potential market which could be the financial ruin of those if there is no competition for their product, the price of their product will be lower. That is a kind of round-about way of trying to answer what you are saying. The problem would be that the farmers who grow for this company could not compete for other companies and frankly there are some companies in Maine that said if this passes we can call them out in Idaho from now on.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I apologize for protracting the debate. However, it seems to me possible that a farmer could apply the same technology to all his products, label those sold in Maine and not label those shipped to Central America if he so chooses.

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

Representative BUCK: Mr. Speaker, Men and Women of the House: Much has been said on the floor so far about the manufacturer and wholesaler but nobody has spoken about the retailer issue as yet. If you look at the bill, starting on line 26, it talks about the

requirements linked upon retailers. It goes on to say that if you purchase any of these food items you have to save the delivery tickets or the invoices for a period of two years. It also goes on to say that all of the storage for these materials will be in a separate part of the store or the shelf.

I think that to mean that if it is refrigerated items you perhaps have to purchase additional refrigeration, there are labeling requirements. I can see this being a tremendous burden on the retailer if this bill is enacted.

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

Representative STEVENS: Mr. Speaker, Men and Women of the House: We all know that Maine is an agricultural state and that Maine is a poor state. I am trying to think — I am hearing this debate about jobs and about the cost to industry and how in the end we will all suffer for this because jobs will be lost for the people that could come to Maine. But, thinking about this cost I wasn't at the hearing so I am not on the committee either. But, I would like to know, aside from the cost of stickers, not unlike Chiquita Banana or the stickers we find on mangoes, what exactly is the cost that would be incurred by industry? It would seem to me that a by-line under the nutritional information — which I will remind everyone is now required and seems much appreciated by the general public — aside from a small by-line that said this was produced in a company that uses genetically engineered food or this may have been exposed to genetically engineered food or in fact this is genetically engineered food. It seems rather ironic that we are entitled to know the nutritional information but not the sort of fundamental ingredients to what we might be eating or feeding people.

So, aside from these stickers and the ink made for the small by-line what exactly is this cost? Because I don't buy the fact that these items would have to be placed in different areas of the store because if they have to be placed in different areas of the store does that mean maybe they are contagious or maybe these fruit flies with eyes are on these fruit and they jump over to the pure food and then all the food will be infected with this genetically engineered stuff?

Also, it seems hard for the customer to be right if the customer doesn't even know.

I request the yeas and nays please.

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

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: Over the years I think we have all seen countless examples of protective action taken by state and federal agencies when they think there is a danger for people. People here this morning have spoken about the new technology. If we had been reading the papers and listen to the radio and watching tv for the last ten years it seems to me that this is a topic that has been discussed and discussed and discussed, both pro and con, and no federal agency or state agency has issued any warnings. I see no danger at this time. It would appear to me unusual that all the other states do not require this, why should we at this time become concerned?

I know it is nature for people to resist change and the older you get the more likely you are to become stubborn and resistant. There is nothing new

here really, it is a technology that has been developed over the years. There have been ample opportunities for all the agencies who are concerned for our welfare to warn us if there is any danger. For that reason I support the motion to indefinitely postpone.

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

Representative HEESCHEN: Mr. Speaker, Members of the House: I urge you to defeat the motion to indefinitely postpone this bill. We are not talking about a warning, we are talking about information.

It has been said here that we shouldn't have any concerns because all the agencies that might be concerned have said that there is no problem. This is what I take to be the leave it to the experts philosophy, the scientists, the corporations developing these products and the regulatory agencies that supposedly regulate them but which have a surprising amount of revolving door movement — we should trust them. I know we all have total faith in federal agencies here. We know that from all the debate we have had on such things as auto emissions and so forth.

I think that there is a misapprehension that the kind of testing for food is in any way similar to that that goes into say drug manufacturing. It isn't. You don't have the same kind of tests. Even when drugs are approved they frequently are recalled when there are problems with them.

I should note that it is up to the company developing the food to report to the FDA what it wants to report. And, that the FDA at this time still has no solid procedures in place to deal with the emerging aspects of biotechnology.

I would further note that technology, that is what we are talking about, is not necessarily science, technology is public policy. We are dealing with an issue of public policy here. People keep asking why should Maine do this? If you look up on our state seal sometime you might see that it says "Dirigo" and I don't know what your translation of "Dirigo" is but I don't think it means we will follow all the rest of them. It means we are willing to step out and take a stand and say something when we think it is important.

I would like to address some of the comments that some of the previous speakers brought up. One is that we are going to be blessed with a potato that is going to make potato growing so simple here because we don't have to deal with potato beetles. I admit that the potato beetle is a formidable enemy of anybody trying to grow potatoes or tomatoes or especially eggplant. I grow potatoes. I know what a problem it is. But, the potato beetle is also remarkable in its ability to develop resistance. It did take about 60 years for potato beetles to develop resistance to the lead arsenate kind of early pesticides. It took maybe only 10 or 20 years for it to start to develop resistance to the organochlorine compounds that are the basis of the pesticides we use today. Some recent pesticides have been tested with potato beetles, they develop resistance within a couple of years. There is a real concern that having the particular potato we are talking about, the pesticide potato, the BT potato, is that expressing the pesticide in all its parts, including the potato, at all times will force a very rapid adaptation of the potato beetle such that they will become resistant to this and in fact render an entire class of pesticides of biological pesticides no use to those who aren't using the genetic potatoes.

That is kind of a side concern on this.

I am concerned that the proponents of this technology really want to shift the burden to those who don't choose to grow this. I am not an organic certified grower but I am familiar with the kind of process that an organic grower must go through in order to certify that they are in fact growing organic produce. It is fairly rigorous, there are affidavits, there are site visits, there are records to be kept.

What is going to happen with the emergence of the biotechnology is that those who want to use the new technology are saying that anybody, essentially, that wants to voluntarily label that they aren't — well, they will be the ones who will be forced to go through all the rigmarole of affidavit and site visits and record keeping. There are a lot of them who would like to do that.

I think it is misleading us to say that the processors are going to be totally incapable of dealing with different kinds of products. Processors are always willing to run separate runs and do special labels if they think the label is a selling point. My concern is that the industry doesn't think that the label is a selling point. In fact they must think that it is going to work against them.

I should also note that the potatoes that we are talking about that is developed by Nature Mark of Island Falls, actually Nature Mark is a subsidiary of one of the largest chemical companies in the world, Monsanto Corporation. This particular potato does need the approval of the Pesticide Control Board in order to be propagated. Now, if that is the case I would submit to you that there is some concern there.

I would like to discuss a little bit the nature of the hearing on this bill. It was rather a David versus Goliath kind of setting. Essentially it was ordinary citizens versus industry. All the ordinary citizens, those who had no connection to — no monetary connection or otherwise to these products favored labeling, they want to know what is in their food.

I would like to note Monsanto's presence at this hearing. Monsanto paid a dietitian to review the bill and testify. This dietitian didn't acknowledge who was paying her until asked the question. Monsanto's subsidiary Nature Mark paid another dietitian to review the bill and testify at the hearing. This dietitian didn't state who she was working for or appearing on behalf of until asked the question and this was the same dietitian who last year on the same bill testified for the Biotechnology Association and at that time did not say who had asked her to speak until asked; and who had a letter in the Bangor Daily News recently extolling the benefits of genetically engineered products and who did not at that time note her connection to the industry.

We had a veterinarian speaking who has been consulting for at least five years for Monsanto and other chemical companies. He did acknowledge that part way through. Two years ago when he testified in opposition to our BST bill, while he was a consultant for Monsanto at that time, he did not acknowledge that.

We had three farmers who were growing Monsanto's Nature Mark pesticide potato. We had the department testify in opposition. The department in the past has taken money from Monsanto to take a trip out to St. Louis. We had the Maine law firm who is the lobbyist for Monsanto, speaking. We had the

Biotechnology Association in which Monsanto also has a lot of clout, speaking.

I think that the industry — my concern is if that the industry feels that it can only succeed as Representative Kilkelly said, through stealth, I have trouble with that.

It seems the industry is saying to the consumers, to your constituents, to all of us, if you want to know what your food is all about, well, tough luck, too bad.

The representative for the biotechnology assoc. in answer to a hypothetical question said that it was their belief that even if the food were totally reconstituted from basic enzymes that might have been broken down from soybeans in a biotechnological vat and then recombined to a food that closely resembled the original food that should not have to be labeled as genetically engineered. I have trouble with that, that is the industry saying tough luck, too bad.

If you have got personal beliefs, if you are a vegetarian, if you have dietary beliefs, well it is tough luck, too bad, you don't get to know whether you have got any animal genes in your vegetables.

If you have got religious beliefs, religious dietary beliefs, well tough luck, too bad, you don't get to know if you are a Jew or Moslem that there are pork genes in your vegetable or in something else.

If you have got strong religious beliefs about messing around with the basics of life, well tough luck, too bad, you don't get to know.

If you have got allergies, only the major known allergens are going to have to be acknowledged. The minor ones, bananas — they say they are minor, they don't cause much of a problem. Well, maybe they don't cause a wide-spread problem but probably to those to whom they are a problem they are a very real problem.

We also have the situation where we are essentially creating all new DNA, all new organisms. They may resemble the existing organism but they cannot have happened in the ordinary course of evolution. So, we have the possibility of creating entirely unknown allergens.

Representative Kilkelly gave the example of trying to predict what would happen with a couple of genes that they thought controlled eyes and eyelessness and it turned out to be incredibly different things.

I am asking all of you, do you want to say to your constituents, too bad, tough luck, along with the industry? Or, do we want to inform people, let people make their own choice? I personally believe that the industry, if it so chose would be able to use labeling as a selling point. If the industry wants the respect of consumers I believe it has got to be up front and honest with them. I am concerned that it appears to want to hide something.

I think this is one time that you could say with accuracy that you really don't want someone shoving something down your throat. If we don't have information we will have no choice.

Again, I urge you to vote against the pending motion.

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

A vote of the House was taken and more than one-fifth of the members present and voting having

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

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

Representative AHEARNE: Mr. Speaker, Ladies and Gentlemen of the House: I must do something that I normally wouldn't do, that is change my vote on a divided report. I will be voting for the pending motion. Receiving many phone calls from my district, they voiced their overwhelming objection to this bill. So this is the reason why I will be supporting the pending motion to indefinitely postpone.

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

Representative HICHBORN: Mr. Speaker, Men and Women of the House: I have just a word or two to say, I will make it very short. If I had a pain in the stomach I wouldn't go to a horse doctor. If I had a heart pain I wouldn't go to a bone specialist. If I had a broken leg I certainly wouldn't go to a pediatrician. I am surprised to hear someone say that all the work has been done by the specialists, who better to do it than the specialist those who are the technology experts, the scientists, dietitians, the doctors? And, those who have written about their findings should not be criticized, I wouldn't think. It seems to me that somebody had to take the lead. They took the lead. This is nothing new. I stress the fact that for years this has been going on, there has been ample opportunity to find out what was wrong and for us to have been advised had there been any danger.

I agree to support the motion of "Ought Not to Pass."

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: In response to the previous speaker, I am certainly not opposing — again, opposing the technology or expressing any kind of frustration or opposition to the fine folks that do this kind of scientific work. I think it is totally appropriate that scientist are engaged in these kinds of activities. All I am saying is that it is a new technology and the purpose of sending around a memo on the fruit flies was not to be critical of what people are doing, but to show that there are so many unknown things. People who have spent their entire professional life dealing with genetically engineered issues were surprised at what happened. Again, no one suspected this gene was so powerful, no one knew that the mouse gene was going to work in the fruit fly. That is the concern I have, there are a lot of unknowns.

To indefinitely postpone this bill is to decide for your constituents that they do not have a right to know what is in their food. I would urge your opposition to this motion.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Marshall.

Representative MARSHALL: Mr. Speaker, Colleagues of the House: I have a tape at home dated 1988, speaking of genetic engineering and that sort of thing, so it is not a terribly new technology. The interesting thing of that tape was that it mentioned the availability of gene splicing kits to the high school science departments at that time in 1988. So, this isn't terribly new.

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

ROLL CALL NO. 33

YEA - Ahearne, Aikman, Ault, Bailey, Barth, Bigl, Bouffard, Cameron, Campbell, Carleton, Chizmar, Clark, Cloutier, Clukey, Cross, Damren, Davidson, Desmond, Dexter, DiPietro, Donnelly, Dore, Driscoll, Dunn, Farnum, Fisher, Gamache, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Heino, Hichborn, Jacques, Jones, S.; Joy, Joyce, Joyner, Keane, Kerr, Kneeland, Kontos, Labrecque, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Lovett, Lumbr, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Mitchell EH; Morrison, Murphy, Nadeau, Nass, Nickerson, O'Gara, O'Neal, Peavey, Pinkham, Plowman, Poirier, Poulin, Povich, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rotondi, Rowe, Savage, Simoneau, Sirois, Spear, Stedman, Stone, Strout, Taylor, Thompson, True, Tufts, Tyler, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor, Yackobitz, The Speaker.

NAY - Adams, Benedikt, Berry, Brennan, Bunker, Chartrand, Chase, Chick, Etnier, Fitzpatrick, Gates, Gerry, Green, Hatch, Heeschen, Johnson, Jones, K.; Joseph, Kilkelly, LaFountain, Lemaire, Lemke, Luther, Meres, Ott, Paul, Pendleton, Perkins, Richardson, Rosebush, Samson, Saxl, J.; Saxl, M.; Shiah, Stevens, Townsend, Treat, Tripp, Truman, Tuttle, Volenik, Winn.

ABSENT - Birney, Buck, Daggett, Look, Martin, Mitchell JE; Pouliot, Vigue, Watson.

Yes, 100; No, 42; Absent, 9; Paired, 0; Excused, 0.

100 having voted in the affirmative and 42 in the negative, with 9 being absent, the motion to indefinitely postpone the Bill and all accompanying papers was accepted and sent up for concurrence.

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 - April 5, 1995 by Representative JACQUES of Waterville.

PENDING - Passage.

Subsequently, the House Order (H.O. 17) was passed.

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

- In House, Read on March 21, 1995.

TABLED - April 5, 1995 by Representative JACQUES of Waterville.

PENDING - Passage. (2/3 Vote Required)

On motion of Representative CARLETON of Wells, tabled pending passage and specially assigned for Tuesday, April 11, 1995.

BILL HELD

HOUSE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-62) - Minority (5) "Ought Not to Pass" - Committee on Criminal Justice 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)
-In House, Minority **"Ought Not to Pass"** Report of the Committee on **Criminal Justice** read and accepted.
HELD at the request of Representative PLOWMAN of Hampden.

Representative PLOWMAN of Hampden moved that the House reconsider its action whereby the Minority **"Ought Not to Pass"** Report was accepted.

On further motion of the same Representative, tabled pending her motion to Reconsider and specially assigned for Tuesday, April 11, 1995.

On motion of Representative MORRISON of Bangor the House adjourned at 12:20 p.m., pursuant to the Joint Order (S.P. 452).

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

SENATE PAPERS

The following Joint Order: (S.P. 452)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, April 11, 1995, at 9:30 o'clock in the morning.

Came from the Senate, read and passed.

Was read and passed in concurrence.

Bill "An Act to Prevent Age Discrimination in the Purchase of Loan Insurance" (S.P. 449) (L.D. 1222)

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 Concerning Suspension of Drivers' Licenses of Minors Who Operate Motor Vehicles Under the Influence" (S.P. 447) (L.D. 1220)

Bill "An Act to Establish Responsibility for the Investigation of the Use of Deadly Force by Law Enforcement Officers" (S.P. 448) (L.D. 1221)

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 Reform Campaign Financing by Changing the Nature of Television Advertising by Candidates" (S.P. 450) (L.D. 1223)

Came from the Senate, referred to the Committee on **Legal and Veterans Affairs** and Ordered Printed.

Was referred to the Committee on **Legal and Veterans Affairs** in concurrence.

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for Runoff Elections (S.P. 451) (L.D. 1224)

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.

Representative Keane of Old Town was granted permission to address the House:

Representative KEANE: Mr. Speaker, for the Record, I would like to say that on Roll Call No. 25, L.D. 175, I was recorded as not voting. I would like to be recorded as voting yea.
