

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
40th Legislative Day
Tuesday, May 9, 1995

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

Prayer by the Reverend Peter Mars, Sheriff's Chaplain, Kennebec County. Posting of the Colors by the Maine Sheriffs' Association Color Guard under the direction of Staff Sergeant Randall Liberty.

National Anthem by Corporal Donald B. Williams, Maine Sheriffs' Association.

The Journal of Thursday, May 4, 1995 was read and approved.

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

Representative FISHER: Mr. Speaker, Men and Women of the House: I stand before you today, May 9, 1995, to ask you to take a moment to reflect. To reflect on those who have made it possible for us to gather here today to do the business of the people of the state of Maine. I refer to those who sacrificed for our freedoms in past wars. Yesterday the nation and the world celebrated the 50th Anniversary of VE Day, the victory over Hitler's armed forces. The war in Europe was over.

In August when we are no longer in session, we will again be celebrating, in this case VJ Day, which ended the pacific phase of the war. I request that today we take a moment to give thanks to those who served and didn't return. To those who served and survived and for those who stayed at home to produce the tools that made it possible to preserve our freedoms. I would also ask that when we adjourn for the day, we do so in memory of those who sacrificed for us in wars past. Thank you.

SENATE PAPERS

The following Communication: (H.C. 137)
Maine State Senate
State House Station 3
Augusta, Maine 04333

May 4, 1995

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

Please be advised that Jeffrey H. Butland, President of the Senate, today appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for 4-year Terms for Senators (S.P. 155) (L.D. 378):

Senator HARRIMAN of Cumberland
Senator AMERO of Cumberland
Senator CIANCHETTE of Penobscot

Sincerely,
S/May M. Ross

Secretary of the Senate
Was read and ordered placed on file.

Reference is made to RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for 4-year Terms for Senators (S.P. 155) (L.D. 378)

In reference to the action of the House on April 26, 1995, whereby it Insisted and Joined in a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative AHEARNE of Madawaska
Representative SAXL of Bangor
Representative YACKOBITZ of Hermon

The following Communication: (H.C. 138)
Maine State Senate
State House Station 3
Augusta, Maine 04333

May 4, 1995

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

Please be advised that Jeffrey H. Butland, President of the Senate, today appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the Legislature Following Redistricting in the Year 2003 (S.P. 170) (L.D. 431):

Senator RUHLIN of Penobscot
Senator AMERO of Cumberland
Senator CARPENTER of York

Sincerely,
S/May M. Ross

Secretary of the Senate
Was read and ordered placed on file.

Reference is made to RESOLUTION, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the Legislature Following Redistricting in the Year 2003 (S.P. 170) (L.D. 431)

In reference to the action of the House on April 26, 1995, whereby it Insisted and Joined in a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative DAGGETT of Augusta
Representative SAXL of Bangor
Representative ROBICHAUD of Caribou

Ought to Pass as Amended

Report of the Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-103) on Bill "An Act to Clarify the Display of Social Security Numbers on Insurance-related Identification Cards" (EMERGENCY) (S.P. 345) (L.D. 950)

Came from the Senate, with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-103).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-103) was read by the Clerk and adopted and the Bill assigned for second reading Wednesday, May 10, 1995.

Divided Report

Majority Report of the Committee on Legal and Veterans Affairs reporting "Ought Not to Pass" on Bill "An Act Concerning the Posting of Campaign Signs within 150 Feet of Private Property" (S.P. 189) (L.D. 497)

Signed:

Senators: STEVENS of Androscoggin

MICHAUD of Penobscot

FERGUSON of Oxford

Representatives: LABRECQUE of Gorham

MURPHY of Berwick

TRUMAN of Biddeford

CHIZMAR of Lisbon

GAMACHE of Lewiston

FISHER of Brewer

NADEAU of Saco

LEMONT of Kittery

TRUE of Fryeburg

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-108) on same Bill.

Signed:

Representative: BUCK of Yarmouth

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

Was read.

On motion of Representative NADEAU of Saco the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-98) on Bill "An Act to Fully Fund the Maine Human Rights Commission and the Civil Rights Unit in the Attorney General's Office" (S.P. 333) (L.D. 914)

Signed:

Senators: MILLS of Somerset

FAIRCLOTH of Penobscot

Representatives: TREAT of Gardiner

LEMKE of Westbrook

RICHARDSON of Portland

JONES of Bar Harbor

LaFOUNTAIN of Biddeford

WATSON of Farmingdale

PLOWMAN of Hampden

MADORE of Augusta

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

Signed:

Senator: PENDEXTER of Cumberland

Representatives: HARTNETT of Freeport

NASS of Acton

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-98).

Was read.

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

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

Divided Report

Majority Report of the Committee on Legal and Veterans Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-100) on Bill "An Act to Ensure Integrity in Maine Government by Prohibiting Involvement of Constitutional Officers and the State Auditor in Political Action Committees" (S.P. 43) (L.D. 73)

Signed:

Senators:

FERGUSON of Oxford

STEVENS of Androscoggin

Representatives:

LEMONT of Kittery

LABRECQUE of Gorham

TRUE of Fryeburg

BUCK of Yarmouth

MURPHY of Berwick

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

Signed:

Senator:

MICHAUD of Penobscot

Representatives:

TRUMAN of Biddeford

CHIZMAR of Lisbon

NADEAU of Saco

GAMACHE of Lewiston

FISHER of Brewer

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-100).

Was read.

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

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

Representative NADEAU: Thank you Mr. Speaker, Men and Women of the House: I would like to speak briefly. Quite frankly, as you can probably detect from the title of this bill this is a direct result of something that had been a problem and had been corrected without legislative initiative. It was the feeling of the committee that there was no need for this legislation. This had been a problem or had been a perceived problem, but that perception was taken care of voluntarily by the individuals involved. Some of you might be thinking, well, there is still the perceived problem. I would counter argue with that and say, "Well if, in fact, that is the case and someone, whoever that individual might be, really wanted to skirt this, they could very easily become a corporate entity, which really isn't all that big of a deal or they could simply from a personal stand point distribute whatever campaign contributions they wish. I tend to think and I hope you would agree, that this issue is a solution to a problem that really doesn't exist."

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative NADEAU of Saco to accept the Minority "Ought Not to Pass" Report and later today assigned.

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:

Agriculture, Conservation and Forestry

Resolve, to Identify Priorities for Public Acquisition of Interests in Land (H.P. 1070) (L.D. 1505) (Presented by Representative MARTIN of Eagle Lake) (Cosponsored by Representatives: AHEARNE of Madawaska, BARTH of Bethel, BERRY of Livermore, GOULD of Greenville, HEESCHEN of Wilton, HICHBORN of Lagrange, SHIAH of Bowdoinham, Senators: MICHAUD of Penobscot, O'DEA of Penobscot, PARADIS of Aroostook, PINGREE of Knox)

Banking and Insurance

Bill "An Act to Promote Additional Health Insurance Reform" (H.P. 1074) (L.D. 1513) (Presented by Speaker GWADOSKY of Fairfield) (Cosponsored by Representatives: CARLETON of Wells, MAYO of Bath, Senators: ESTY of Cumberland, KIEFFER of Aroostook)

Human Resources

Bill "An Act to Prevent the Use of Correctional Facilities for the Detention of the Mentally Ill" (H.P. 1072) (L.D. 1507) (Presented by Representative FITZPATRICK of Durham) (Cosponsored by Representatives: BRENNAN of Portland, DORE of Auburn, JONES of Bar Harbor)

Bill "An Act to Provide Services for Children in Need of Supervision" (H.P. 1073) (L.D. 1508) (Presented by Representative FITZPATRICK of Durham) (Cosponsored by Representative: BRENNAN of Portland)

Bill "An Act Regarding the Registration and Publication of Residences of Released Persons Convicted of Sexual Abuse of a Minor" (H.P. 1071) (L.D. 1506) (Presented by Representative RICHARDSON of Portland) (Cosponsored by Representative: FITZPATRICK of Durham, Senators: AMERO of Cumberland, FAIRCLOTH of Penobscot)

Reference to the Committee on Judiciary suggested. The Bill was referred to the Committee on Criminal Justice, ordered printed and sent up for concurrence.

Legal and Veterans Affairs

Resolve, Establishing the Task Force on Alcoholic Beverage Sales (EMERGENCY) (H.P. 1075) (L.D. 1514) (Presented by Representative MADEAU of Saco) (Cosponsored by Senator: STEVENS of Androscoggin) (Governor's Bill)

REPORTS OF COMMITTEES

Refer to the Committee on Agriculture, Conservation and Forestry

Representative DORE from the Committee on Taxation on Bill "An Act to Establish a Spaying and Neutering Program for Domestic Pets" (H.P. 665) (L.D. 888) reporting that it be referred to the Committee on Agriculture, Conservation and Forestry.

Report was read and accepted and the Bill referred to the Committee on Agriculture, Conservation and Forestry and sent up for concurrence.

Refer to the Committee on Legal and Veterans Affairs
Representative TREAT from the Committee on Judiciary on Bill "An Act to Clarify the Forcible Entry and Detainer Law" (H.P. 982) (L.D. 1390)

reporting that it be referred to the Committee on Legal and Veterans Affairs.

Report was read and accepted and the Bill referred to the Committee on Legal and Veterans Affairs and sent up for concurrence.

Ought to Pass as Amended

Representative CLARK from the Committee on Criminal Justice on Bill "An Act to Enable Sworn Law Enforcement Employees of the Immigration and Naturalization Service of the Department of Justice and Officers of the United States Custom Service of the Department of the Treasury to Enforce Maine Law" (H.P. 67) (L.D. 103) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-205)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-205) was read by the Clerk and adopted and the Bill assigned for second reading Wednesday, May 10, 1995.

Ought to Pass as Amended

Representative DORE from the Committee on Taxation on Bill "An Act to Amend the Sales Tax Exemption for Emergency Shelter and Feeding Organizations" (H.P. 390) (L.D. 525) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-199)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-199) was read by the Clerk and adopted and the Bill assigned for second reading Wednesday, May 10, 1995.

Ought to Pass as Amended

Representative UNDERWOOD from the Committee on Inland Fisheries and Wildlife on Bill "An Act to Provide a 3-day Nonresident Small Game Hunting License" (H.P. 734) (L.D. 1008) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-217)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-217) was read by the Clerk and adopted and the Bill assigned for second reading Wednesday, May 10, 1995.

Divided Report

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Extend the Jurisdiction of the Maine Labor Relations Board to Public Employees Who Have Been Employed Fewer Than 6 Months" (H.P. 263) (L.D. 365)

Signed:

Senators:

BEGLEY of Lincoln
MILLS of Somerset

Representatives:

JOY of Crystal
JOYCE of Biddeford
PENDLETON of Scarborough
STEDMAN of Hartland
TUTTLE of Sanford
WINSOR of Norway

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-189) on same Bill.

Signed:

Senator:

RAND of Cumberland
HATCH of Skowhegan
CHASE of China
LEMAIRE of Lewiston
SAMSON of Jay

Was read.

Representative HATCH of Skowhegan moved that the House accept the Minority **"Ought to Pass"** as amended Report.

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

Divided Report

Majority Report of the Committee on Labor reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-196) on Bill "An Act to Permit the Buyback of Retirement Time" (H.P. 567) (L.D. 768)

Signed:

Senators:

MILLS of Somerset
RAND of Cumberland
HATCH of Skowhegan
CHASE of China
LEMAIRE of Lewiston
PENDLETON of Scarborough
SAMSON of Jay
TUTTLE of Sanford
WINSOR of Norway

Representatives:

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

Signed:

Senator:

Representatives:

BEGLEY of Lincoln
JOY of Crystal
JOYCE of Biddeford
STEDMAN of Hartland

Was read.

Representative HATCH of Skowhegan moved that the House accept the Majority **"Ought to Pass"** as amended Report.

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

Divided Report

Majority Report of the Committee on Inland Fisheries and Wildlife reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-194) on Resolve, to Encourage the Harvest of Coyotes (H.P. 583) (L.D. 793)

Signed:

Senators:

HALL of Piscataquis
KIEFFER of Aroostook
MICHAUD of Penobscot
ROTONDI of Madison
JACQUES of Waterville
CLARK of Millinocket
KEANE of Old Town
ROSEBUSH of East Millinocket
TUFTS of Stockton Springs
CHICK of Lebanon
PERKINS of Penobscot

Representatives:

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

Signed:

Representatives:

GREENLAW of Standish
UNDERWOOD of Oxford

Was read.

On motion of Representative ROTONDI of Madison the Majority **"Ought to Pass"** as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-194) was read by the Clerk and adopted. The Bill was assigned for second reading Wednesday, May 10, 1995.

CONSENT CALENDAR

First Day

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

(H.P. 708) (L.D. 965) Bill "An Act to Protect Maine's Maritime Heritage" Committee on Education and Cultural Affairs reporting **"Ought to Pass"**

(H.P. 848) (L.D. 1179) Resolve, to Name a Mountain in the Town of Oxford Committee on State and Local Government reporting **"Ought to Pass"**

(H.P. 861) (L.D. 1192) Bill "An Act Concerning the Office of Geographic Information Systems" Committee on State and Local Government reporting **"Ought to Pass"**

(H.P. 167) (L.D. 215) Bill "An Act to Amend the Laws Regarding Consent Agreements of the Department of Environmental Protection" Committee on Natural Resources reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-220)

(H.P. 592) (L.D. 802) Bill "An Act to Enhance Criminal Penalties for Hate Crimes" Committee on Criminal Justice reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-204)

(H.P. 724) (L.D. 998) Bill "An Act to Preserve the Confidentiality of Witnesses Providing Information on the Forest Fire Arson Phone Line" Committee on Agriculture, Conservation and Forestry reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-219)

(H.P. 783) (L.D. 1100) Bill "An Act to Appropriate Funds to the Baxter State Park Authority for Road Maintenance" Committee on Agriculture, Conservation and Forestry reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-207)

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, May 10, 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. 388) (L.D. 1065) Bill "An Act to Clarify Detention Responsibilities"

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

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

(S.P. 281) (L.D. 753) Bill "An Act to Correct and Clarify Certain Provisions of the Liquor Laws" (C. "A" S-101)

(H.P. 207) (L.D. 266) Bill "An Act to Revise the Security Deposit and Reinsurance Requirements for Individual Self-insurers" (C. "A" H-193)

(H.P. 611) (L.D. 821) Bill "An Act to Amend the Laws Regarding the Procedures for Emergency Admissions to a Mental Hospital" (EMERGENCY) (C. "A" H-191)

(H.P. 640) (L.D. 863) Bill "An Act to Improve the Well-being of Communities by Providing Adequate Services for Victims of Sexual Assault, Incest, Rape and Child Sexual Abuse and Enhance Community Education and Prevention Programs Statewide" (C. "A" H-190)

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

BILLS IN THE SECOND READING As Amended

Bill "An Act to Allow the Issuance of Life Sentences for Violent Crimes" (H.P. 152) (L.D. 200) (C. "A" H-184)

Bill "An Act to Include Short-term Health Insurance Policies in the Continuity Laws" (H.P. 321) (L.D. 442) (H. "A" H-161 to C. "A" H-124)

Bill "An Act to Permit an Employer to Offer a Compressed Time Workweek to Consenting Employees" (S.P. 188) (L.D. 496) (C. "A" S-72 and S. "A" S-96)

Bill "An Act to Reestablish the 300-foot Setback for Siting of Solid Waste Disposal Areas" (H.P. 409) (L.D. 566) (C. "A" H-180)

Bill "An Act to Modify the Presidential Primary Laws" (H.P. 442) (L.D. 608) (C. "A" H-164)

Resolve, Directing the Bureau of Insurance to Develop a Comparable List of Mandatory Insurance Benefits for Health Maintenance Organizations (S.P. 329) (L.D. 910) (C. "A" S-90)

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

Bill "An Act to Exclude Certain Parks from the Definition of Mobile Home Parks" (H.P. 372) (L.D. 507) (C. "A" H-142)

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

On motion of Representative NADEAU of Saco was set aside.

The same Representative moved that the Bill and all accompanying papers be indefinitely postponed.

On further motion of the same Representative tabled pending his motion to indefinitely postpone the Bill and all accompanying papers and later today assigned.

Bill "Act Concerning Sick Leave and Vacation Benefits" (H.P. 388) (L.D. 523) (C. "A" H-140)

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

On motion of Representative WHITCOMB of Waldo was set aside.

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

Bill "An Act to Amend the Maine State Retirement System Laws to Authorize the Buy-back of Time Served in the Peace Corps or VISTA Programs" (S.P. 260) (L.D. 696) (C. "A" S-82)

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

On motion of Representative WHITCOMB of Waldo was set aside.

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

ENACTORS Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require the Popular Election of the Attorney General (H.P. 153) (L.D. 201) (C. "A" H-70)

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

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

Representative LEMKE: Thank you Mr. Speaker, Men and Women of the House: Having spent seven hours in the Judiciary Committee yesterday on the Takings Bill, it has essentially taken away my breath on this particular measure. So, for once Mr. Speaker, I will definitely be brief.

I do urge support of the pending motion. This bill has received majorities in both houses of the Legislature. In order for it now to go to the people it requires a two-thirds vote. I would urge your support for that, so that this bill can now go to the people in referendum. It may be discussed fully and finally voted upon. This should not be and I do not believe it is a partisan issue. This received bipartisan support in the committee of jurisdiction. It has bipartisan cosponsorship.

We are in a unique period in our state's history when we can put partisanship in the back seat on an issue like this. For Republican members of the House, personally I believe a vote in favor of sending this to the people in referendum is in full accordance with the principals of Abraham Lincoln and a government of the people, by the people and for the people. For my fellow Democrats, I believe the party, the oldest continuous political party in the world has no problem in supporting this measure. This is something that, I haven't talked to him recently, but I assume Thomas Jefferson who is considered the High Priest of Democracy would support.

I know that Andrew Jackson who is an elected Judge in Tennessee would support this. William Jennings Bryant who 100 years from next year fought a brilliant campaign for the people, would support this and so would Woodrow Wilson, Franklin D. Roosevelt, Harry Truman and Jack Kennedy. For that matter I would assume Bill Clinton, who among other posts was the popularly elected Governor and Attorney General of the state of Arkansas would support this measure.

Ladies and gentlemen of the House, I know you will vote your conscience and I am not telling you how to vote. I respect your decision on this, but I do urge you to vote for this. This measure is hardly radical when 43 states already elect their Attorney General. It is a beautiful day outside, the warm breeze blowing. Let it come into this house today. Let us send this out to the people. Let us tell them that we understand what they said in the last election. Let us say that we believe the people are sovereign in a democracy and so on this particular issue I urge you to vote green. Thank you very much.

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

Representative DAGGETT: Thank you Mr. Speaker, Men and Women of the House: I would just like to remind you of the debate on this issue. There is bipartisan opposition to the passage of this. I want to remind you of the issue of the Attorney General who is Chief Law Enforcement Officer of the state of Maine running a state wide campaign and the concern over the issue of money and raising money for a state wide campaign.

Also, there is the problem of access to this office and preventing people who don't have access to the money from running for the office. We have not had any problems with the current way that Maine elects its Constitutional Officers. In fact, I would submit to you, it is a very good process and we have a wonderful history of very conscientious and capable Constitutional Officers. I hope you will join me in opposing this.

Representative LANE of Enfield requested the Clerk to read the Committee Report.

The Clerk read the Committee Report in its entirety.

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

Representative LANE: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I think you can see from the Report as read, that it had an overwhelming majority on "Ought to Pass". I agree with the good Representative Lemke that this is indeed a time for a breath of fresh air in our constitutional process and our democratic process. I believe that the people of the state of Maine have a right to hear the arguments supporting a popular election of the Attorney General and they have the right to go and vote on it. I think this is a good thing and I ask you to vote to support Enactment. I would like a roll call. Thank you.

Representative LANE of Enfield requested a roll call on passage to be enacted.

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

Representative JACQUES: Thank you Mr. Speaker, Men and Women of the House: With all due respect to my colleague from Westbrook, Representative Lemke, I am not trying to compare myself with the long list of the outstanding members of the political arena that he has used to support this bill. The good Representative from Waterville, Representative Jacques will not be voting for this bill. It is not a matter of political power or prestige, because clearly with term limits this Representative will not be around for the next election of the Attorney General of the state of Maine.

My objection is and always has been and always will be that until we deal with campaign finance reform in this state and in this country, the Chief Law Enforcement Official of this state, the lawyer who represents all the people, the lawyer whose opinion will dramatically effect the lives of everyone in this state. This system is not any better than the one we have now. People say Maine is the only state that lets the Legislature elect their Attorney General. Each and every one of us were elected by those very same people.

It reminds me a lot of when my City Councilors get in a flap saying the Legislature isn't listening to the people in the city and the whole ball of wax.

I remind them that each and every one of them represent the same identical people that I represent. I represent four wards in the City of Waterville, whole or partial. They represent the same people. I ask them it is curious to me how you and I can be so far apart under the guise that we are representing the very same people. It usually leaves them scratching their heads.

My biggest concern with the way that money corrupts elections and make no question about it, big money controls elections. You don't have to be a genius to see that. It happens everywhere. My first election for the House was less than \$500 dollars. You now have elections to the House and the Senate that are in the \$30,000 dollar class and in the Senate up as much as \$150,000 dollars. What do you imagine that an election for the Attorney General of this state would cost to run that state wide campaign? I dare say it would be more than the Governor. I dare say that your people and my people would not have very much influence on how much money was spent on that campaign. The money would be spent to influence them, but they would have very little influence on where that money went and where it came from.

My concern back then is the same as it is now. This person has to be above and beyond all the repercussions of running and holding your hand out and getting money from oil companies, paper companies, chemical companies and drug companies. That is the problem I have with this bill. With all due respect to Abraham Lincoln, Thomas Jefferson, George Washington and the whole lot, I, Paul Jacques, a Representative from District 100 in Waterville, Maine, have that problem.

I think it is a very serious problem. I am not saying the system that we have now is totally without flaw, but I will not vote to replace a system that has worked very well, as far as the integrity of that position with a system, that I believe is wide open and wrought with potential abuse. Plain and simple, no politics, no partisan as a Representative from Waterville duly elected by the people who had the opportunity to do so. I will be voting against this bill, because it is a bad bill. It replaces a system that people say is not the best of systems with one that is absolutely, totally worse. Thank you.

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

Representative LEMKE: Thank you Mr. Speaker, Men and Women of the House: I cannot match the good Majority Leader in volume, but I will try to make up for it as best I can. We have heard this argument before about campaign finance reform and how we shouldn't do anything whatsoever until we get campaign finance reform.

I would simply say to the good Representative from Waterville who always says exactly what he thinks. I think on this particular issue he has the cart before the horse. I think you have to first sign up for democracy and then you make democracy work as well as possible. I would assume that if we have more offices open to direct election that will, in fact, generate its own emphasis to the campaign finance reform, which I think most of us agree is necessary. We disagree on the details, but the need of it. I just don't see the corollary to what the good gentlemen from Waterville is saying.

If you follow this string all the way out to the end of it, then why have elections for Governor. Why

have elections for Congress? Why have elections for us? It cost money. It doesn't make sense, ladies and gentlemen, as Al Smith said and he was a good Democrat, "But anyway you slice it, it is still bologna." When you get right down to it here it is either a vote whether we believe in the people directly electing us or not directly electing us. What the good Representative from Waterville is defending on the floor is indirect election rather than direct election.

I know he has put himself up against Jackson, Jefferson, Lincoln and I didn't mention Roosevelt, but he believed in popular recall of judges so we might as well throw him in. I still think you should give due consideration to those folks in the past. They were in a Democratic tradition, Republican or Democratic. I think if you vote for this bill you will be very safe. You will be given the most traditional vote you have ever given on the floor of this House.

I don't think we have anything to fear, but fear itself from democracy, but if we do fear democracy, ladies and gentlemen, we are in sad shape. Once again, I urge you to vote for the pending motion, which is Enactment. Send it to the people and let the people be heard on this.

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

Representative LUTHER: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I will be voting against this motion. I think there could be a better way to get our officers. I would like to see the Supreme Court appoint them. They are all beyond any political repercussions. That is not the choice we have today. The choice we have today is really not any better than what we are already doing and could be much worse. I don't see any reason to make this change. Thank you Mr. Speaker.

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

Representative LOOK: Thank you Mr. Speaker. May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative LOOK: Thank you very much. To anyone who can answer this question. In looking at this bill and the amendment that is attached to it, my question is in the statutes, are there any qualifications for this position listed?

The SPEAKER: The Representative from Jonesboro, Representative Look has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Thank you Mr. Speaker, Men and Women of the House: It is my understanding that there are no qualifications for this position.

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

Representative LOOK: Thank you Mr. Speaker, Men and Women of the House: The reason I asked this question is because this particular position certainly requires a degree of advanced education that many of us do not have. I am concerned that putting this out to a general election might produce a person in a position that, perhaps, might not have the need for they type of qualifications that the position, at this time requires and therefore, I urge you to give serious consideration to how you vote on this particular issue. Thank you.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of 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 Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Thank you Mr. Speaker, Ladies and Gentlemen of the House: The good Representative from Jonesboro made a good point. There are currently no requirements for qualifications in this position. That does not change if you allow the people of the state of Maine to make a choice. My guess is they will make a good choice. A choice based on the facts that are presented to them or that 186 people in the state make a choice. If we go through the history of the Attorney General, we have made some good choices. If this doesn't pass, we will probably go forward and make some other good choices.

To hop back to Representative Jacques point earlier about if someone is campaigning they would be tainted by trying to raise funds. I have a question. How many of the Attorney Generals that have been elected have then gone on to run for Governor and applied that taint to themselves?

The SPEAKER: The Chair recognizes the Representative from South Berwick, Representative Farnum.

Representative FARNUM: Thank you Mr. Speaker. A question, If I may? When is it a bad bill? When it is a voice of the people? Thank you.

The SPEAKER: The pending question before the House is Enactment. This being an amendment to the Constitution requires for its final Enactment a two-thirds vote of those members present and voting. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 71

YEA - Ahearne, Aikman, Barth, Benedikt, Bigl, Birney, Buck, Cameron, Campbell, Carleton, Chick, Clukey, Cross, Damren, Donnelly, Dunn, Farnum, Gerry, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Jones, S.; Joy, Joyce, Joyner, Kneeland, Lane, Layton, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Lovett, Lumbr, Madore, Marshall, Marvin, Nass, Nickerson, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Povich, Reed, G.; Reed, W.; Rice, Richardson, Robichaud, Savage, Simoneau, Spear, Stedman, Taylor, True, Tufts, Underwood, Waterhouse, Whitcomb, Winglass, Winn, Winsor, Yackobitz.

NAY - Adams, Bailey, Berry, Bouffard, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Gamache, Gates, Gould, Green, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kontos, Labrecque, LaFountain, Lemaire, Look, Luther, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Paul, Poulin, Pouliot, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Stone, Strout, Thompson, Townsend, Treat, Tripp, Tyler, Vigue, Volenik, Watson, Wheeler, The Speaker.

ABSENT - Ault, Brennan, Dexter, Fitzpatrick, Heino, Ott, Truman, Tuttle.

Yes, 68; No, 75; Absent, 8; Excused, 0.

68 having voted in the affirmative and 75 voted in the negative, with 8 being absent, the Bill failed of passage to be enacted and sent up for concurrence.

Emergency Measure

An Act to Create Additional Employment Opportunities in the Financial Services Industry by Allowing Financial Organizations to Charge Additional Finance Charges (S.P. 18) (L.D. 49) (C. "A" S-70)

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

Representative LUTHER of Mexico requested a roll call on passage to be enacted.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of 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.

ROLL CALL NO. 72

YEA - Aikman, Bailey, Bigl, Birney, Bouffard, Buck, Bunker, Cameron, Campbell, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, DiPietro, Donnelly, Dore, Driscoll, Dunn, Farnum, Fisher, Gamache, Gates, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Jacques, Jones, S.; Joy, Joyce, Joyner, Keane, Kerr, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemont, Libby JL, Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Mitchell EH; Morrison, Murphy, Nadeau, Nass, Nickerson, O'Gara, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rotondi, Rowe, Savage, Saxl, M.; Simoneau, Sirois, Spear, Stedman, Stone, Strout, Taylor, Thompson, Tripp, True, Tufts, Tyler, Vigue, Waterhouse, Watson, Wheeler, Whitcomb, Winglass, Winn, Winsor, Yackobitz, The Speaker.

NAY - Adams, Ahearne, Benedikt, Berry, Brennan, Desmond, Etnier, Gerry, Green, Hatch, Heeschen, Hichborn, Johnson, Jones, K.; Joseph, Lemaire, Libby JD; Luther, Martin, Meres, Mitchell JE; O'Neal, Samson, Saxl, J.; Shiah, Stevens, Townsend, Treat, Volenik.

ABSENT - Ault, Barth, Dexter, Fitzpatrick, Heino, Kilkelly, Lemke, Ott, Richardson, Rosebush, Truman, Tuttle, Underwood.

Yes, 109; No, 29; Absent, 13; Excused, 0.

109 having voted in the affirmative and 29 voted in the negative, with 13 being absent, this being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Change the Commissions Payable to the State from Off-track Betting (S.P. 240) (L.D. 637) (C. "A" S-95)

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

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

Emergency Measure

An Act to Make Revisions to the Uniform Interstate Family Support Act (S.P. 286) (L.D. 774)

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

Emergency Measure

An Act to Conform the Maine Tax Laws for 1994 with the United States Internal Revenue Code (H.P. 626) (L.D. 851) (C. "A" H-147)

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

Emergency Measure

An Act to Repeal the Sunset Provision Regarding Drug Recognition Technicians and Amend the Definition of Drugs in the Operating-under-the-influence Statutes (S.P. 332) (L.D. 913) (C. "A" S-84)

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

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

Mandate

An Act to Increase Compensation of Trustees of the Gray Water District (S.P. 220) (L.D. 562) (C. "A" S-75)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 128 voted in favor of the same and 0 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Protect Forest Management as a Viable Land Use (S.P. 25) (L.D. 56) (C. "A" S-81)

An Act to Allow Plumbers and Pump Installers to Install Wiring on Replacement Water Heaters and Water Pumps in Residential Property (S.P. 30) (L.D. 60) (S. "A" S-87 to C. "A" S-65)

An Act to Direct the Department of Human Services to Contract with the Next Step for Domestic Violence Family Crisis Services (H.P. 65) (L.D. 101) (H. "A" H-105)

An Act to Increase the Bonding Limits of the Maine Turnpike Authority (S.P. 102) (L.D. 242) (C. "A" S-94)

An Act to Permit Greenhouses To Have Temporary Road Signs (H.P. 193) (L.D. 252) (C. "A" H-153)

An Act to Continue Protection Under a Protection From Abuse Order (H.P. 297) (L.D. 401) (C. "A" H-174)

An Act Concerning Juveniles Hunting without Adult Supervision (S.P. 163) (L.D. 424) (C. "A" S-67)

An Act to Prohibit State Legislative Employees from Using State Time or Property for Campaigning (S.P. 169) (L.D. 430) (S. "A" S-86 to C. "A" S-68)

An Act Regarding Fees Assessed by the Maine Land Use Regulation Commission for Changes within a Development District (S.P. 194) (L.D. 503) (C. "A" S-76)

An Act to Restrict the Use of Eminent Domain Power (H.P. 397) (L.D. 532) (C. "A" H-121)

An Act to Increase the Time Period for Veterans Serving in Desert Storm Recognized in the Veterans Preference Program (S.P. 213) (L.D. 555) (C. "A" S-69)

An Act to Expand the Jurisdiction of the Consumer Advisory Board of the Department of Mental Health and Mental Retardation by Giving Board Members and its Staff Direct Access to All Areas of Agencies that Serve Clients of the Department of Mental Health and Mental Retardation and People with Autism (H.P. 456) (L.D. 622) (C. "A" H-156)

An Act Pertaining to the Signing of Petitions (H.P. 471) (L.D. 652)

An Act to Amend the Law Governing Real Estate Transfer Taxes Applicable to the Maine Turnpike Authority (H.P. 479) (L.D. 660) (C. "A" H-146)

An Act Governing Privileged Communications between Victims of Domestic Violence and Their Advocates (S.P. 261) (L.D. 697) (C. "A" S-78)

An Act to Increase the Compensation of Members of the State Claims Commission (H.P. 536) (L.D. 732) (C. "A" H-159)

An Act to Allow the Submetering of Electric Rates in Campgrounds (H.P. 565) (L.D. 766) (C. "A" H-160)

An Act to Amend the Purchasing Laws (S.P. 290) (L.D. 788)

An Act to Allow the Workers' Compensation Board to Submit Legislative Proposals Annually (S.P. 292) (L.D. 790)

An Act to Amend the Sexual Abuse Laws by Including 16-year-olds and 17-year-olds Who Are Still in School in the Provisions for Sexual Abuse of Minors (H.P. 616) (L.D. 826) (C. "A" H-157)

An Act to Allow the Workers' Compensation Board to Regulate Nonfinancial Aspects of Workers' Compensation Arbitration (S.P. 300) (L.D. 839) (C. "A" S-73)

An Act Regarding Insurance Rates for Volunteer Drivers (S.P. 309) (L.D. 847) (C. "A" S-74)

An Act to Change the Department of Corrections' Lease Provisions to Conform with Statutes Regarding Leases of State Buildings by Other Departments (H.P. 654) (L.D. 877)

An Act to Clarify the Use of the Power of Sale Foreclosures Regarding Limited Liability Corporations (S.P. 320) (L.D. 901)

An Act to Extend the Time Period for a District Attorney to File a Petition in Order to Allow Time for Juveniles to Fulfill All Conditions of Informal Adjustment (S.P. 326) (L.D. 907)

An Act to Provide for the Timely Passage of the State Budget (H.P. 687) (L.D. 938)

An Act to Protect the Integrity of the Maine Cellular Telecommunications Network (H.P. 711) (L.D. 968)

An Act Regarding Designation by the Commissioner of Transportation of a Deputy or Another Staff Member to Represent the Commissioner of Transportation at

Maine Turnpike Authority Meetings (H.P. 847) (L.D. 1178)

Resolve, Directing the Department of Human Services to Review the Regulations for the Licensure of General and Specialty Hospitals and Report to the Joint Standing Committee on Human Resources (H.P. 408) (L.D. 565) (C. "A" H-155)

Resolve, to Revise the Reporting Date of the Home School Study Committee (S.P. 315) (L.D. 896) (C. "A" S-83)

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

An Act to Modify Community Rating for Individual and Small Group Health Plans (H.P. 431) (L.D. 594) (C. "A" H-123)

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

On motion of Representative JACQUES of Waterville was set aside.

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

An Act to Establish Landowner Recognition Day (S.P. 233) (L.D. 598) (C. "A" S-66)

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

On motion of Representative MARTIN of Eagle Lake was set aside.

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

Representative MARTIN: Mr. Speaker, Members of the House: I pose a question to anyone who may care to respond. After reading the bill, that the purpose of reading the bill is to recognize landowners. As a landowner, I am pleased someone is going to be recognizing me, but I wonder what it is we are going to be recognizing and who is going to do it, other than a proclamation and what will be accomplished by the paper that will be used to make the proclamation.

The SPEAKER: The Representative from Eagle Lake, Representative Martin has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker since there is no response. I move indefinite postponement of the bill and all accompanying papers.

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

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

Representative DAGGETT: Thank you Mr. Speaker, Men and Women of the House: I apologize for not getting up earlier to respond to this. I don't have my information in front of me, but I will speak to this the best I can.

In a previous year the Landowner Recognition Day was established by Executive Order. This year a bill was put in to have it made permanent. It is to recognize the landowners who allowed their land to be used for public recreation purposes. There is some further information that I would be glad to speak to

if someone wishes to table this, but it was a unanimous committee report in front of the State and Local Government Committee. I think the committee felt that it was an appropriate recognition of those landowners who have allowed their property to be used. It was endorsed by the Sportsmen Alliance of Maine.

On motion of Representative CARLETON of Wells, tabled pending the motion of Representative MARTIN of Eagle Lake to indefinitely postpone the Bill and all accompanying papers and later today assigned.

An Act to Clarify Credit Union Common Bond Requirements (S.P. 235) (L.D. 600) (C. "A" S-71)

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

On motion of Representative LIBBY of Buxton was set aside.

The same Representative requested a roll call on passage to be enacted.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of 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 pending question before the House is Enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 73

YEA - Adams, Ahearne, Aikman, Ault, Bailey, Barth, Berry, Bigl, Birney, Brennan, Buck, Bunker, Cameron, Campbell, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, DiPietro, Donnelly, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Guerrette, Hartnett, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemaire, Lemont, Libby JL; Lindahl, Look, Lovett, Lumbr, Luther, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nass, Nickerson, O'Gara, O'Neal, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Richardson, Ricker, Robichaud, Rosebush, Rotondi, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stedman, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tufts, Tyler, Underwood, Vigue, Waterhouse, Watson, Wheeler, Whitcomb, Winglass, Winn, Winsor, Yackobitz, The Speaker.

NAY - Benedikt, Bouffard, Libby JD; Volenik.

ABSENT - Dexter, Heino, Lemke, Ott, Truman, Tuttle. Yes, 141; No, 4; Absent, 6; Excused, 0.

141 having voted in the affirmative and 4 voted in the negative, with 6 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Allow Certain Employees of the Maine State Liquor and Lottery Commission and Their Families to Purchase Lottery Tickets (H.P. 530) (L.D. 726) (C. "A" H-141)

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

On motion of Representative JACQUES of Waterville, was set aside.

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

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

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

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Thursday, May 4, 1995 have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

Bill "An Act to Clarify the Statutory Prohibition of the Collection of More Than 2 Months of Rent in Advance" (H.P. 196) (L.D. 255)

- In House, Minority "Ought Not to Pass" Report of the Committee on Legal and Veterans Affairs read and accepted on April 26, 1995.

- In Senate, Majority "Ought to Pass" as amended Report of the Committee on Legal and Veterans Affairs read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-129) in non-concurrence.

TABLED - May 4, 1995 (Till Later Today) by Representative NADEAU of Saco.

PENDING - Motion of same Representative to recede and concur.

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

Representative LEMONT: Thank you Mr. Speaker. I request a roll call and wish to speak to my motion.

The SPEAKER PRO TEM: The gentleman may continue.

Representative LEMONT: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I would encourage the House to maintain the position they took on this legislation last week. We have already debated this bill so I won't continue to prolong the debate on it. I would like to remind the House what we are attempting to do is legislate to the entire state of Maine to address a perceived problem of two or three landlords in one community. The issue can and should be addressed through home rule. My good colleague and House Chair of my committee says, "Trying to kill a flea with a sledge hammer." That expression certainly pertains to this. I urge you to defeat the pending motion. Thank you.

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

The SPEAKER PRO TEM: A roll call has been requested. For the Chair to order a roll call it

must have the expressed desire of more than one-fifth of 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 Chair recognizes the Representative from Orono, Representative Stevens.

Representative STEVENS: Thank you Mr. Speaker, Men and Women of the House: I would only remind my colleagues here that this is arguably a local issue, but to that I have two points.

Orono can't supersede the state. Orono can't change Landlord Tenant Law. I would also offer that to those of you who claim this is an Orono issue, no one from Orono came down to oppose this bill. My colleagues in the House, from other towns, have offered that they have the same problems in other areas. Some of those areas include colleges, universities or Air Force Bases. It is not just an Orono issue. I really would appreciate your support on this one. We worked very hard to compromise, to achieve the support of the Senate. The Senate Chair of the committee is on board with us this year and as you know, it has passed in the other body. I would appreciate your support.

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

Representative MARSHALL: Thank you Mr. Speaker, Colleagues of the House: This is another instance where the market probably will dictate what happens. If you are a renter of property and you say you have to have two, four or six months of rent to secure it and your customers don't like it, they will go somewhere else. Don't we live in a free market society? If your rent is too much for someone to pay, don't you go someplace else. It seems that this is a similar situation where if a college student or whatever else it is, wants to secure that rent and the price is too high, they can very easily say, "I'm sorry, this isn't the rent I want and I am going to go somewhere else." Let the market run it.

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

Representative MITCHELL: Thank you Mr. Speaker, Men and Women of the House: I would just like to support the good Representative from Orono, Representative Stevens. This is not just an Orono issue. Munjoy Hill has many, many rental issues, often low income and they do not always have the luxury to go elsewhere. Many members of this House have actually resided on Munjoy Hill at some point. I just want to let people know it is not just an Orono issue. Thank you.

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

Representative JONES: Thank you Mr. Speaker, Ladies and Gentlemen of the House: As it is in Landlord Tenant Law right now, you can collect the first month, the last month and a security deposit which sufficiently protects the landlord from damages to a unit.

What concerns me about this issue is discriminatory practices that could be engaged upon by a landlord. If you are a Native American. If you are a Black American. If you have kids and you stroll up to the landlord's door and say, "Hey, I would like to rent this place." They say, "Fine, but I need six months rent in advance." It may look like it is an

Orono bill, but it is really a discriminatory bill in disguise. I think we should recede and concur. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is to Recede and Concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 74

YEA - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Davidson, Desmond, Dore, Driscoll, Etnier, Fisher, Gamache, Gates, Green, Hatch, Heeschen, Jacques, Johnson, Jones, K.; Joseph, Keane, Kilkelly, Lemaire, Lemke, Luther, Martin, Meres, Mitchell EH; Mitchell JE; Nadeau, O'Neal, Pouliot, Richardson, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Thompson, Treat, Tripp, Tyler, Volenik, Watson, Winn.

NAY - Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Cameron, Campbell, Carleton, Chick, Clukey, Cross, Daggett, Damren, DiPietro, Donnelly, Dunn, Farnum, Gerry, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Hichborn, Jones, S.; Joy, Joyce, Joyner, Kerr, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Murphy, Nickerson, O'Gara, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Povich, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rotondi, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, Tufts, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor, Yackobitz.

ABSENT - Dexter, Fitzpatrick, Heino, Morrison, Nass, Ott, Paul, Poulin, Townsend, True, Truman, Tuttle, The Speaker.

Yes, 55; No, 83; Absent, 13; Excused, 0.

55 having voted in the affirmative and 83 voted in the negative, the motion to Recede and Concur did not prevail.

Subsequently, the House voted to Insist.

HOUSE DIVIDED REPORT - Majority (7) "Ought Not to Pass" - Minority (6) "Ought to Pass" as amended by Committee Amendment "A" (H-112) - Committee on Labor on Bill "An Act to Protect the Rights of Employees and to Ensure the Proper Expenditure of Public Funds" (H.P. 262) (L.D. 364)

TABLED - May 4, 1995 (Till Later Today) by Representative GATES of Rockport.

PENDING - Motion of Representative CHASE of China to accept the Minority "Ought to Pass" as amended Report. (Roll Call Requested)

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

Representative HATCH: Thank you Mr. Speaker, Men and Women of the House: This bill makes it unlawful for certain organizations that receive state funds to use those funds to influence employees for or against unionization or to use those funds to violate labor, wage an hour, fair employment or human rights laws.

The department that provides funds for these organizations is responsible for investigating complaints in the agency being investigated must cooperate. We had a little problem with this because hospitals would have had a problem with this. We did amend this bill. The amendment excludes political subdivisions within the state including municipalities,

quasi-municipal corporations or district, plantations, school administrative districts, school administrative units and community school districts from the conditions contained in the bill.

The fiscal cost on this particular bill would be absorbed within the budget. The additional work load that would be through the Judicial System could also be absorbed within the budgeted resources of the Judicial Department. What this in essence would do that tax dollars shouldn't be spent opposing right granted by statute. It doesn't prohibit use of state money to negotiate Collective Bargaining Agreements or educate supervisors. Public money should be used for the public purpose of the grant not to fight for or against unionization. Thank you.

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

Representative JOY: Thank you Mr. Speaker. The information that we have been given so far is absolutely correct. However, there is a very important point I would like to make. With the exclusion of all of these different agencies under the amendment that is attached to this bill it leaves primarily the public health care institutions that are faced with this. In the testimony given by the health care institutions we find they are already under the law prohibited from this particular practice.

The problem is it is very difficult for them to determine where their money comes from and what are public monies and what are not public monies. Essentially the state money that comes through on this is what they get under medicaid. Under the current law, if they are in violation of the law, that is the limit that could be imposed upon the hospital. The problem is the new bill does not put any limit in there. There is a very definite concern on the part of the hospitals that other funds would be attached, because it is so difficult to determine what are state funds, federal funds or private funds and so on right down the line.

The statement of fact for the bill made it unlawful for an employer to use state funds or state administrative funds and then I said they went ahead and did all the exclusions in the amendment. There is testimony from the Department of Labor which implies that, in essence, this would make a contract for institutions and if that is the case, this law is under the wrong title and chapter and instead of being under Title 26. It should come under a different title which governs contracts.

In view of the confusion and the problems that this would create, I would urge you to defeat the "Ought to Pass" motion and accept the "Ought Not to Pass" motion which was the Majority Report. Mr. Speaker, I would request a division.

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

Representative CHASE: Thank you Mr. Speaker, Colleagues in the House: The good labor colleague of mine from Crystal, Representative Joy, did point out a couple of problems with the original draft of the bill. However, the bill that we will be voting on is the bill as amended in committee. That bill, if you read the statement of fact, clearly specifies that this does not apply to health care facilities already covered by a similar law. That problem does not exist.

The reason I feel so strongly about this bill has to do with my former life as an auditor. Basically

this bill really applies to community action agencies and private non-profit organizations. I witnessed the flagrant use of public monies that were intended to benefit individuals in this state being used for union avoidance activities. It was not illegal, because the funds were from Block Grants passed through the state of Maine. Those Block Grants have very few restrictions. One of the things that I do care about and I care about in my position as a Representative is looking at how we spend the money of the people of the state of Maine.

If we tax folks for stuff and those things include benefits to people who are eligible, people who are eligible because of their income or because of their circumstances, those citizens ought to receive that benefit. The money should not be taken and used for or against union organizing. It simply isn't right. This bill is one that prevents that from happening. The community action agencies already have in their accounting systems very clear and simple ways of identifying their sources of funds.

They already have to do that in order to comply with all their other federal grants. It is not a difficulty we are imposing upon them. What we are doing is simply protecting the tax money of the people of the state of Maine. This language had come before the body last session and it was a bipartisan rangle that resulted in some, I thought, fairly good language that was also endorsed by the Maine Labor Relations Board and I urge you to support this bill as amended. Thank you.

Representative GUERRETTE of Pittston requested the Clerk to read the Committee Report.

The Clerk read the Committee Report in its entirety.

The SPEAKER PRO TEM: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of 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 pending question before the House is the motion to accept the Minority "Ought to Pass" as amended Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 75

YEA - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Lemont, Luther, Martin, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Poulin, Pouliot, Povich, Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Siros, Stevens, Thompson, Townsend, Treat, Tripp, Tyler, Volenik, Watson, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Campbell, Carleton, Chick, Clukey, Cross, Damren, Donnelly, Dunn, Farnum, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Murphy,

Nass, Nickerson, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, Tufts, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor, Yackobitz.

ABSENT - Dexter, Heino, Ott, True, Truman, Tuttle.
Yes, 75; No, 70; Absent, 6; Excused, 0.

75 having voted in the affirmative and 70 voted in the negative, with 6 being absent, the Minority "Ought to Pass" Report was accepted.

The Bill was read once. Committee Amendment "A" (H-112) was read by the Clerk and adopted. The Bill was assigned for second reading Wednesday, May 10, 1995.

SENATE DIVIDED REPORT - Report "A" (8) "Ought to Pass" as amended by Committee Amendment "A" (S-88) - Report "B" (4) "Ought Not to Pass" - Report "C" (1) "Ought to Pass" as amended by Committee Amendment "B" (S-89) - Committee on Labor on Bill "An Act to Reimburse Former Temporary Hearing Officers of the Workers' Compensation Board for Lapsed Vacation Time" (S.P. 234) (L.D. 599)

- In Senate, Report "A" "Ought to Pass" as amended read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-88).

TABLED - May 4, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Motion of Representative HATCH of Skowhegan to accept Report "A" "Ought to Pass" as amended by Committee Amendment "A" (S-88).

On motion of Representative MITCHELL of Vassalboro, tabled pending the motion of Representative HATCH of Skowhegan to accept Report "A" "Ought to Pass" as amended by Committee Amendment "A" (S-88) and specially assigned for Wednesday, May 10, 1995.

The Speaker resumed the Chair.

The House was called to Order by the Speaker.

An Act to Protect the Integrity of Seawalls and Retaining Walls (EMERGENCY) (S.P. 72) (L.D. 160) (C. "A" S-36)

TABLED - May 4, 1995 by (Till Later Today) Representative MITCHELL of Vassalboro.

PENDING - Passage to be Enacted. (Roll Call Requested)

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of 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 pending question before the House is Enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 76

YEA - Aikman, Bailey, Barth, Bigl, Birney, Bouffard, Buck, Bunker, Cameron, Campbell, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Damren, Desmond, DiPietro, Donnelly, Dunn, Farnum, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hichborn, Jacques, Jones, S.; Joseph, Joy, Joyce, Joyner,

Keane, Kerr, Kilkelly, Kneeland, Labrecque, LaFountain, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Morrison, Murphy, Nadeau, Nass, Nickerson, O'Gara, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rosebush, Rotondi, Savage, Simoneau, Sirois, Spear, Stedman, Stone, Strout, Taylor, Tripp, Tufts, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor, Yackobitz, The Speaker.

NAY - Adams, Ahearne, Ault, Benedikt, Berry, Brennan, Carleton, Chartrand, Chase, Daggett, Davidson, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Green, Hartnett, Hatch, Heesch, Johnson, Jones, K.; Kontos, Lemaire, Lemke, Luther, Martin, Meres, Mitchell EH; Mitchell JE; O'Neal, Richardson, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Stevens, Thompson, Townsend, Treat, Tyler, Volenik, Watson.

ABSENT - Dexter, Heino, Ott, Paul, True, Truman, Tuttle.

Yes, 97; No, 47; Absent, 7; Excused, 0.

97 having voted in the affirmative and 47 voted in the negative, with 7 being absent, a two-thirds vote of all the members elected to the House being necessary, the Bill failed of passage to be enacted.

Representative CARLETON of Wells moved that the House reconsider its action whereby this Bill failed of passage to be enacted.

On further motion of the same Representative, tabled pending his motion to reconsider and later today assigned.

On motion of Representative CARLETON of Wells, the House recessed until 4:30 p.m.

(After Recess)

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

Senate Divided Report - Committee on Judiciary - (10) Members "Ought to Pass" as amended by Committee Amendment "A" (S-98) - (3) Members "Ought Not to Pass" on Bill "An Act to Fully Fund the Maine Human Rights Commission and the Civil Rights Unit in the Attorney General's Office" (S.P. 333) (L.D. 914) which was tabled by Representative TREAT of Gardiner pending her motion to accept the Majority "Ought to Pass" as amended Report.

- Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-98).

Subsequently, the Majority "Ought to Pass" as amended Report was accepted. The Bill was read once. Committee Amendment "A" (S-98) was read by the Clerk and adopted. The Bill was assigned for second reading Wednesday, May 10, 1995.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Thursday, May 4, 1995 have preference in

the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the Maine Legislature to 99 Members in the House and 33 Members in the Senate (H.P. 46) (L.D. 40)

- In House, Majority "Ought Not to Pass" Report of the Committee on State and Local Government read and accepted on April 26, 1995.

- In Senate, Minority "Ought to Pass" as amended Report of the Committee on State and Local Government read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-117) in non-concurrence.

TABLED - May 4, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Further Consideration.

Representative DAGGETT of Augusta moved that the House Adhere.

Representative BUCK of Yarmouth moved that the House Recede and Concur.

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

Representative BUCK: Thank you Mr. Speaker, Ladies and Gentlemen of the House: There are several reasons why we should consider adopting this legislation.

The first if you will notice the fiscal note attached to the bill. The state is able to save over a \$1,500,000 dollars during the normal two year session of the legislature. Given the financial condition of the state, this by itself should be enough for us to consider passage of this bill, but there are other considerations as well.

If you compare Maine with other state's of similar characteristics you will find in every case the size of Maine's Legislature and particularly the size of Maine's House is much larger. If, for example, you compare Maine with state's of similar population you will find that those other states have an average House size of 82 compared to Maine's 151. If you compare Maine with states of similar size you will find that those other states have an average House size of 110 compared to Maine's 151.

What is most telling of all perhaps is if you compare legislative expenses with all of those states of similar size and population. Here you will find that those other states spend per capita a little over \$6 dollars per person to operate their Legislature. In Maine we spend over \$9.75. It seems to me that if states of similar size and population can operate their legislature with far less money and far fewer people then the state of Maine can as well. I would urge you all to accept the Minority Report and Mr. Speaker, I would request a roll call.

Representative BUCK of Yarmouth requested a roll call on his motion to Recede and Concur.

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

Representative DAGGETT: Thank you Mr. Speaker, Men and Women of the House: I would like to remind you that there is currently a bill in Committee of Conference that addresses this same issue. I think it would be appropriate that you oppose this motion and allow the Committee of Conference to deal with a bill that does the very same thing, except it does it in a little better way, if that bill should go anywhere.

This bill would require that the reduction take place immediately and then there would be an immediate redistricting in order to effect this. The other bill follows the appropriate redistricting which is after the census which would be in the year 2000. The other one, at least, makes an effort to fold into our current process. Granted there would be some kind of money savings, but I can assure you having served on the Reapportionment Commission the last time around that this is a very expensive and time consuming process. Our last one did go to court. I hope you will see the wisdom and not try to deal with two bills which accomplish the same thing and oppose the motion to Recede and Concur.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of 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 Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Thank you Mr. Speaker. I request permission to pose a question to the Chair.

The SPEAKER: The Representative may pose his question.

Representative WHITCOMB: Thank you Mr. Speaker. I recall the Representative from Augusta is serving on the Committee of Conference and for the curiosity of those of us who have an interest in this legislation, I am interested if she will be supporting the reduction in the size of the Legislature in the Committee of Conference.

The SPEAKER: The Representative from Waldo, Representative Whitcomb has posed a question to through the Chair to the Representative from Augusta, Representative Daggett. The Chair recognizes that Representative.

Representative DAGGETT: Thank you Mr. Speaker, Men and Women of the House: I have never supported reducing the size of the Legislature, because I feel it would be unfair to the citizens of the state of Maine.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion to Recede and Concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 77

YEA - Aikman, Ault, Barth, Birney, Buck, Campbell, Clukey, Cross, Damren, Dunn, Gerry, Gieringer, Gooley, Greenlaw, Guerrette, Heino, Jones, S.; Joy, Joyce, Joyner, Kerr, Kneeland, Layton, Libby JD; Lindahl, Lovett, Marvin, McAlevey, McElroy, Ott, Peavey, Pendleton, Pinkham, Poirier, Povich, Reed, G.; Rice, Savage, Simoneau, Stedman, Stone, Taylor, Waterhouse, Whitcomb, Winglass, Winsor.

NAY - Adams, Ahearne, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Donnelly, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gould, Green, Hartnett, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kilkelly, Kontos, Labrecque, LaFountain, Lane, Lemaire, Lemont, Libby JL; Look, Lumbra, Luther, Madore, Marshall, Martin, Mayo, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy,

Nadeau, Nass, Nickerson, O'Gara, O'Neal, Paul, Perkins, Poulin, Pouliot, Reed, W.; Richardson, Robichaud, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Spear, Stevens, Strout, Thompson, Townsend, Treat, Tripp, Tufts, Tyler, Vigue, Volenik, Watson, Wheeler, Winn, Yackobitz, The Speaker.

ABSENT - Dexter, Lemke, Plowman, Ricker, Rotondi, True, Truman, Tuttle, Underwood.

Yes, 46; No, 96; Absent, 9; Excused, 0.

46 having voted in the affirmative and 96 voted in the negative, with 9 being absent, the motion to Recede and Concur did not prevail.

Subsequently, the House voted to Adhere.

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)

- In House, Minority "Ought Not to Pass" Report of the Committee on State and Local Government read and accepted on April 26, 1995.

- In Senate, Majority "Ought to Pass" as amended Report of the Committee on State and Local Government read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-69) in non-concurrence.

TABLED - May 4, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Further Consideration.

Representative DAGGETT of Augusta moved that the House Adhere.

Representative ROBICHAUD of Caribou moved that the House Recede and Concur.

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

Representative DAGGETT: Thank you Mr. Speaker, Men and Women of the House: I would just like to remind those of you, because the title does not indicate it, but the bill has been amended and the amendment is in regards to the Treasurer. It would provide an amendment to the Constitution to provide for the direct popular election of the Treasurer of the state of Maine.

I hope you will join me in opposing the Recede and Concur motion so that the House continues in the same position that it was earlier.

The Chair ordered a division on the motion to Recede and Concur.

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

Representative ROBICHAUD: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote for the Recede and Concur motion. We have debated this issue in various forms several times already. I would just ask you to remember that if you trust the people of Maine enough to elect you, and each one of us are elected by those same constituents, who would then be electing the Treasurer of Maine. Can we not put our trust in those people to make a good decision? I think we can. Mr. Speaker, I request a roll call.

Representative ROBICHAUD of Caribou requested a roll call on her motion to Recede and Concur.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of 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 Chair recognizes the Representative from Portland, Representative Townsend.

Representative TOWNSEND: Thank you Mr. Speaker, Men and Women of the House: My feeling is amending the Constitution is a drastic action about which we ought to be awfully cautious. I have yet to hear a convincing argument for why we need to do it in this case and for that reason I am going to be opposing the pending motion. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Recede and Concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 78

YEA - Aikman, Ault, Barth, Bigl, Birney, Buck, Cameron, Campbell, Carleton, Clukey, Cross, Damren, Donnelly, Dunn, Farnum, Gerry, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Kneeland, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, McAlevey, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Perkins, Pinkham, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Taylor, Tufts, Underwood, Waterhouse, Whitcomb, Winglass, Winsor, Yackobitz.

NAY - Adams, Ahearne, Bailey, Benedikt, Berry, Bouffard, Brennan, Bunker, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gould, Green, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kontos, Labrecque, LaFountain, Lemaire, Luther, Martin, Mayo, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Poulin, Pouliot, Povich, Richardson, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Strout, Thompson, Townsend, Treat, Tripp, Tyler, Vigue, Volenik, Watson, Wheeler, Winn.

ABSENT - Dexter, Lemke, Plowman, Ricker, Rotondi, True, Truman, Tuttle, The Speaker.

Yes, 67; No, 75; Absent, 9; Excused, 0.

67 having voted in the affirmative and 75 voted in the negative, with 9 being absent, the motion to Recede and Concur did not prevail.

Subsequently, the House voted to Adhere.

HOUSE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-176) - Minority (3) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act to Ensure Courteous Treatment of the Public by State Employees" (H.P. 294) (L.D. 398)

TABLED - May 4, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Acceptance of either Report.

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

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

Representative DAGGETT: Thank you Mr. Speaker, Men and Women of the House: This bill in its original form was very different than the amended form. You may remember the original bill which

created an interesting structure called the Office of Citizen Relations and tried to make an effort to deal with situations where it was alleged that state employees had been rude to citizens who had been in touch with them.

At the time I thought it was quite insulting to state employees, but the bill has been significantly amended and the title has been changed. It now says An Act to Ensure Access to Customer Service Training for State Employees. The thrust of the bill is to attempt to provide some kind of customer service training for state employees. My major opposition to this is I have a psychological opposition to any bill which does not accomplish anything. It concerns me when we pass legislation that does not accomplish anything. I think it is a waste of time, money and the cost of producing the bill. I think it trivialized the entire process of passing legislation.

I will tell you what I am basing my vote, my committee vote on. When the Director of Human Resources was in front of our committee, I asked her if this bill allowed her to do anything that she can not do now for training of state employees. She said, "No". It does not allow her to do anything that she does not do now. I asked her if she would be doing anything different as a result of this bill and she said, "No". I would like to call your attention to the fact that there is no fiscal note. There is no money and I would suggest to you that the bill will accomplish nothing. Training decisions and how we train our employees are much more complicated than adding a couple of words in a long list. Training is extremely expensive. I would be the first person to admit that many of our employees, if not all of them would love to have more training in their jobs, but these are extremely complicated decisions and expensive decisions.

In fact, when we are looking to save money one of the first things we do is cut training. It is a serious problem. Understanding the involvement and what is involved in employee training and making those decisions and knowing that this bill has no way of effecting that, because there is no money on it. I would urge your support for the Minority "Ought Not to Pass" Report.

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

Representative MARSHALL: Thank you Mr. Speaker. May I pose a question to anybody who would care to answer?

The SPEAKER: The Representative may pose his question.

Representative MARSHALL: How much training will it take to require someone to be polite? Is training necessary to cause someone to be polite?

The SPEAKER: The Representative from Eliot, Representative Marshall has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I will answer that question. This is not my argument, but I will just answer the question. This is indicative of our time. We should not have to pass any legislation for politeness, sexual harassment or another number of other ills that plague our society. I would say that very little training is needed to insure politeness. Does that answer the question?

Representative HARTNETT of Freeport requested the Clerk to read the Committee Report.

The Clerk read the Committee Report in its entirety.

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

Representative LANE: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I rise in opposition to the pending motion of "Ought Not to Pass". This piece of legislation has its roots in some very real problems which came to my attention during my campaign and has been reconfirmed many times through many of my colleagues in both parties and from many of your constituents as well.

The problem in its lowest common denominator is unacceptable behavior toward the public by those people hired by the public to serve the public. In the interest of time, I will not relate to you the various testimonies given to me which support this premise. I am sure that you have heard many of these yourself. Originally this bill was perceived to be an anti state worker piece of legislation. I would assure you, Ladies and Gentlemen, this was never my intent.

There should be a way of rewarding the good in dealing with what is wrong. This bill as amended begins to deal with what is wrong by insuring customer relations training for those employees that deal with the public in sometimes very stressful situations. There is no fiscal note. What it does is use existing TQM monies and redirect them toward public relations training. Let me read to you Section 2J, "Provide direction for achieving improvement in total customer satisfaction by making available customer service training for state employees." Section 2K, "Access and make recommendations for the establishment of customer service training programs for state employees in all departments and agencies of state government."

It does reroute existing monies in the TQM process toward public relations training. This came out a Majority Report "Ought to Pass". I ask you to please vote against the pending motion, "Ought Not to Pass" and send a message to our constituents that we hear what is broken and care enough to try to fix it. I would request a roll call. Thank you.

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

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of 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 Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Thank you Mr. Speaker. I pose a parliamentary inquiry to the Chair.

The SPEAKER: The Representative may pose his parliamentary inquiry.

Representative MARTIN: Would it be within the rules to amend this particular bill to require the same treatment from the public for State Legislators, so State Legislators can also treat the public fairly and accurately?

The SPEAKER: The Chair would respond to the good Representative from Eagle Lake, Representative Martin that he may know the answer to that question and that his point has probably been made.

The Chair recognizes the Representative from Brunswick, Representative Davidson.

Representative DAVIDSON: Thank you Mr. Speaker, Men and Women of the House: Looking through this piece of legislation, I was wondering if I could pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative DAVIDSON: Thank you Mr. Speaker. I was wondering if, perhaps, the Representative from Enfield could walk me through the normal complaint process and if that process is uninformed for all departments? I guess I am getting to the point that if there is an issue of local control here, if the departments aren't the best folks to deal with the complaints. I just don't know the process.

The SPEAKER: The Representative from Brunswick, Representative Davidson has posed a question through the Chair to the Representative from Enfield, Representative Lane. The Chair recognizes that Representative.

Representative LANE: Thank you Mr. Speaker. The process is simply to keep going higher, from the superior to the Commissioner and then to the Governor. This piece of legislation has come about because the process is flawed. In many cases, as most of you know, there are many loop holes and it just doesn't work. I used to work for the job training partnership act and I know what it is like to be on the other side of the fence. This has come out as being a positive bill for both sides.

I think it is a win, win bill, because where the emphasis is placed, the state worker will know what is required on them, by passage of this legislation to treat the public in a polite manner. On the other hand, when I was working for the job training partnership act I understood what it was like to be ill treated. I think a lot of these workers are in very stressful situations and it would help them know how to deal with the public in stressful situations. I certainly can't see any harm in being provided with a little extra training to help you deal with people in a stressful situation.

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

Representative GERRY: Thank you Mr. Speaker, Men and Women of House: I rise to ask your support to vote against this "Ought Not to Pass". Our state agencies should be allowed to participate in this sort of training. A lot of our employees don't know how to deal with the public, so I rise in support of this bill. State employees should be courteous to the public. After all the state employees are paid by the people's money. Thank you.

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

Representative MARSHALL: Thank you Mr. Speaker, Colleagues of the House: I would like to convey an experience that I have very often being a Representative of a few people down in York County, every now and then they call and ask me for assistance on something and I will call a department and I won't introduce myself and I will start to get a push off, kind of a don't bother me thing. They will then ask, "Who is this?" I will say, "I'm Representative Marshall from Eliot." They say, "Oh

Representative Marshall how can we be of assistance to you?" I think they do know how to be polite. They don't need training to do that. They just need assistance to do that.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: Thank you Mr. Speaker. I agree with the good Representative Marshall that they don't need any training. They don't need any legislation. They just need supervision.

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

ROLL CALL NO. 79

YEA - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gould, Green, Guerrette, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kneeland, Kontos, LaFountain, Lemaire, Lindahl, Luther, Madore, Martin, Marvin, Mayo, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Ott, Paul, Perkins, Poulin, Pouliot, Povich, Richardson, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Stone, Strout, Thompson, Townsend, Treat, Tripp, Tyler, Vigue, Volenik, Watson, Wheeler, Winglass, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Cameron, Campbell, Carleton, Chick, Clukey, Cross, Damren, Donnelly, Dunn, Farnum, Gerry, Gieringer, Gooley, Greenlaw, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Labrecque, Lane, Layton, Lemont, Libby JD; Libby JL; Look, Lovett, Lumbra, Marshall, McAlevey, Murphy, Nass, Nickerson, Peavey, Pendleton, Pinkham, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Rosebush, Savage, Simoneau, Spear, Stedman, Taylor, Tufts, Underwood, Waterhouse, Whitcomb, Winn, Winsor, Yackobitz.

ABSENT - Dexter, Lemke, Plowman, Ricker, Rotondi, True, Truman, Tuttle.

Yes, 81; No, 62; Absent, 8; Excused, 0.

81 having voted in the affirmative and 62 voted in the negative, with 8 being absent, the Minority "Ought Not to Pass" Report was accepted and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (6) "Ought Not to Pass" - Minority (5) "Ought to Pass" as amended by Committee Amendment "A" (H-167) - Committee on State and Local Government on Resolve, That State Agencies Develop a Refund-for-Compliance Policy (H.P. 300) (L.D. 404)

TABLED - May 4, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Acceptance of either Report.

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

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

Representative JOY: Thank you Mr. Speaker, Ladies and Gentlemen of the House: This bill is probably about as close as I will come to getting a Majority Report out of State and Local Government Committee, but I do feel it needs to be addressed. There are many situations in which individuals and or

businesses receive penalties and fines from various organizations within the government.

There are many times when these people may be in violation of rules that have not come to their attention. As you probably know, rules are posted in the newspaper. It is very easy if you are not looking for these to overlook them and in ignorance of what a change is in the rules. This bill would require if an agency posts a fine on an individual or business, this bill would require that agency sit down with that individual and or that business and decide a date when they can come in compliance.

At the time they come into compliance then 90 percent of that fine would be reimbursed to the individual or the business. If you pursue this you may hear there is a tremendous fiscal note on this bill, but there shouldn't be any fiscal note on this bill. We should not be financing our government on the basis of anticipated fines.

Another reason is this is it a two pronged penalty that is being imposed upon an individual or a business. First the individual has to pay out all the money to come back into compliance with whatever the violation may be and second he has to pay a fine. Therefore, he doesn't have money left to expand the business, if it is a person in business. He doesn't have the money left to hire any new employees. It is kind of a double whammy to this individual or a corporation or business may be faced. This is only for those who unknowingly violate these laws.

This has been amended down to include only four agencies within the state. One is the DEP. One is LURK. One is the Bureau of Insurance and the other is the Bureau of Labor. I hope that you will vote against the pending motion "Ought Not to Pass" and accept the "Ought to Pass" and show people out here that we have some concern for their well being and also there are many horror stories about agencies running out of money and say we will go out and find some. I don't know if that is true or not. I think that this would take away that impression that people may have. I request a division.

Representative JOY of Crystal requested a division on the motion to accept the Majority "Ought Not to Pass" Report.

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

Representative DAGGETT: Thank you Mr. Speaker, Men and Women of the House: I am going to read to you from parts of testimony from two of the agencies that would be effected by this bill, in order to make you understand the ramifications of it a little better. It does indeed have very far reaching ramifications. The bill has been amended so that it would effect only four departments. They are the DEP, LURC, Department of Labor and the Bureau of Insurance.

The Department of Environmental Protection had testimony in front of us and I am going to paraphrase it. The Department bases its civil penalties currently on two factors. One of them is the gravity of the violation. It includes things such as the impact to the environment, cooperation in remedying the violation, cause of the violation, how long the violation continued.

The second one is the economic benefit that has been gained through the violation. In fact, the Legislature has been very concerned about the environmental impact of being out of compliance and

through these violations and it has acknowledged that importance by saying already statutorily that the fine may be double the economic benefit you have gained through the violation. This is something the Legislature has felt is extremely important. Refunding 90 percent of the fine would be a wonderful economic benefit to some who have had serious environmental violations and would undermine that tremendously.

Information from the Department of Professional and Financial Regulation indicates that a large percent of their fines come from consent agreements. That is where the parties come together and have an agreement. If this avenue is taken away, the 90 percent refund is passed, it would force the state to go to litigation in order to gain compliance. Litigation is extremely expensive and time consuming. If that is the way that we must move to get compliance than it would be another use of resources.

I would mention to you that the fiscal note would be tremendous on this, but the money does not go to the departments. It goes to the General Fund. There is no incentive for departments to be out there levying fines, because it doesn't come back to them to spend. This is not mechanism for a department to enhance its own revenue. It still has to come through the budget process. It still has to get their appropriations.

This would be a serious undermining of the efforts that we have today to bring people into compliance that otherwise wouldn't. I hope you will join me in supporting the Majority "Ought Not to Pass" Report.

The Chair recognizes the Representative from Auburn, Representative Gerry.

Representative GERRY: Mr. Speaker, May I please pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative GERRY: In some of the debate I have just heard, this bill is supposed to deal with persons and businesses. I just read through the amendment and I don't find people, just businesses.

The SPEAKER: The Representative from Auburn, Representative Gerry has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Thank you Mr. Speaker. The original bill indicated individuals or businesses. Thank you.

Representative CAMPBELL of Holden 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 call 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 Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Thank you Mr. Speaker, Men and Women of the House: As the Representative from Waterville that served on the Energy and Natural Resources Committee for 15 1/2 years, I think that

Representative Joy has a marvelous idea. The only problem is and I can't talk about the other two departments that I have no dealing with, but in DEP and LURC for someone to come forward and say that they were assessed a fine when they did not know that they were not in compliance, you would not have anyone get their money back.

The process that LURC and DEP goes through to ascertain if you are in compliance or not and eventually end up to a point where you can sign a consent degree and come into compliance or go to court which is a very expensive proposition. No one can ever argue that this process sometimes takes years. So, clearly you are warned and warned and warned. If you are the person that the raw sewage is running down your end of the river in your well, you get very frustrated by the process to get these businesses to come into compliance.

I think the question is mute, because clearly by the time you get to the point where you would be assessed a fine to argue that you did not know that you were not in compliance, the judge ought to take about three seconds to deal with that situation, because the process is long and it is cumbersome. The point that Representative Daggett made clearly a few years people came to the committee and said that developers were violating the law and they were fined \$5,000 dollars and they did so readily, because they were making \$500,000 dollars on the subdivision in the development.

We even had them come to the committee and say it is just the cost of doing business, no problem. We will delay it as long as we can and eventually we will come back and pay the \$5,000 dollars and put the rest of the money \$495,000 dollars in our pockets. You guys are happy and we are extremely happy, but the fact of the matter is the violation is hanging up in the air. Even though this is a novel idea, I don't want anyone to be under the misconception that LURC and DEP just come along and say you are in noncompliance and we are fining you this amount of money effective today. It doesn't happen that way. It certainly doesn't happen that way in most of the violations that the good Representative from Crystal was talking about.

It is a long process. It is a process that both sides argue back and forth of what is compliance and when are you out of compliance, what is the fine going to be, what is involved in coming into compliance and the consent degree basically says we will fine you less money if you come into compliance. If you fix the violation that you have that is offending everyone of your neighbors, it works very well.

To say that someone was caught short as a business and they did not know they were in compliance and all of a sudden the heavy hand of either DEP or LURC and came down and put a fine on them they never knew was coming is false, that just does not happen. Years and years of the Energy and Natural Resources Committee trying to deal with this situation clearly has established that fact. It just doesn't happen that way. There is just too much you have to go through before that fine comes down and many times to the chagrin of the people who have to swallow the pollution that is coming down or the violation that is occurring. I would urge you to follow the light of the Representative from Augusta, Representative Daggett, because it just doesn't happen that way.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: I wonder if the good Representative, Representative Jacques could answer this question. In the amendment it says if the agency finds a business to be knowingly or intentionally in violation of an enforceable provision, the agency is exempt from the provision in this resolve. If they are warned and warned and warned, the agency is exempt from this provision.

The SPEAKER: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to the Representative from Waterville, Representative Jacques. The Chair recognizes that Representative.

Representative JACQUES: Thank you Mr. Speaker. I did not understand a word the Representative said. I am sorry. It came out as a garbled something or other.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative WATERHOUSE: I am sorry for the garble. The question was if these businesses have been warned and warned and warned it seems that in the amendment the provision is in there that if they have been warned that the agencies can decide that they have knowingly violated and the agency is exempt for that provision of refunding the 90 percent.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I am going to try to answer the question which I am not sure quite what it is, but I think it has to do with the phrase knowingly. In order to get the knowingly piece you have to go to court for the civil penalty it can be a consent agreement.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to belabor this issue too much more, but I would like to respond to the good Representative from Waterville, Representative Jacques. I would like to tell him that not in all situations does that warning process take place.

The incident that gave rise to this bill involved the National Starch Company in Island Falls. They have two boilers. One that burns the waste and one which burns fuel oil. Both of these were in sad need of being retrofitted. They talked to a boiler company in Portland and they managed to find one that had been refitted and was already to go on line and the company assured them that because of the offset provision, they were giving them a boiler which actually created less pollution than either one of the others.

They put this boiler on line, but in trying to do so they petitioned the DEP to change their air emission quality license to allow them to put this boiler on there. This process went on for a long time and finally the other two boilers began to get worse and worse. They found themselves in a situation where they either had to shut down and lay off 80 employees or else they would put this boiler

on line. They put the boiler on line and made an appointment with their engineer in Augusta with DEP to try to finalize changing their air emissions license to cover this boiler.

The very day their engineer was down here in Augusta to meet with officials from DEP, a representative from EPA showed up and they were slapped with a fine for having this boiler on line, because it was not on their air emission license. They had made every effort to try to be in compliance and yet they wound up being fined anyway. They appealed this and asked me if I would get involved and I came down and I talked to some people from the EPA. As a result of this the fine was decreased, however, they had only a few days left in the last of their negotiations and this fine would have then been transferred to the parent company.

Instead of being a fairly small fine, it would have been in excess of \$100,000 dollars. It doesn't always happen with a warning, a warning and a warning. Even when people try to be in compliance, many times they get slapped with a fine. Thank you.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: Representative Joy brings up a very interesting scenario and I would submit to you that this law will do nothing to solve that scenario. If you would like to talk about problems with the Air Bureau, I would dare ask you to talk to anybody who served on the committee that tried to deal with auto emissions in the state of Maine. The Air Bureau of DEP was a problem, has been a problem for six or seven years. Management at DEP was a problem. That has to do with the way you run your department. That is the problem we have with the Air Bureau.

This Governor has assured us that those problems will be resolved, because there will be new people running those departments and you are exactly right Representative Joy that problem should have been taken care of months before it occurred. I agree with you. It should have been done. Could have been done, but wasn't done. This bill will not solve that problem if you still have the type of people running the Air Bureau and the people directing that department that we did the last six or seven years. I think we can fix that problem. This bill will not fix that problem, but I understand where you are coming from. I still urge you not to support this bill, but we can fix that problem that you brought up. Thank you.

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

ROLL CALL NO. 80

YEA - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heesch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kil Kelly, Kontos, LaFountain, Lemaire, Luther, Martin, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Poulin, Pouliot, Povich, Richardson, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois,

Stevens, Thompson, Townsend, Treat, Tripp, Tyler, Vigue, Volenik, Watson, Wheeler, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Campbell, Carleton, Chick, Clukey, Cross, Damren, Donnelly, Dunn, Farnum, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbr, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Perkins, Pinkham, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Stedman, Stone, Strout, Taylor, Tufts, Underwood, Waterhouse, Whitcomb, Winglass, Winsor, Yackobitz.

ABSENT - Dexter, Lemke, Plowman, Ricker, Rotondi, Spear, True, Truman, Tuttle.

Yes, 74; No, 68; Absent, 9; Excused, 0.

74 having voted in the affirmative and 68 voted in the negative, with 9 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

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

SENATE PAPERS

Bill "An Act to Ensure Fairness and Choice to Patients and Providers under Managed Health Care" (S.P. 553) (L.D. 1512)

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

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

Bill "An Act to Prohibit the Sale of Firearms to Minors without Parental Approval" (S.P. 550) (L.D. 1509)

Bill "An Act to Make Comprehensive Changes to the Sex Offender Laws" (S.P. 551) (L.D. 1510)

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 Increase the Maximum Lease Size for Bottom Culture Aquaculture" (EMERGENCY) (S.P. 552) (L.D. 1511)

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

Was referred to the Committee on Marine Resources in concurrence.

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

On motion of Representative FISHER of Brewer, the House adjourned at 6:23 p.m., until 9:30 a.m., Wednesday, May 10, 1995 in memory of the people who have died so that we may have the freedoms that we have today.