

# 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  
41st Legislative Day  
Wednesday, May 10, 1995

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

Prayer by the Reverend Sally Poland, United Methodist Church, Scarborough.

Posting of the Colors by the USS Maine Color Guard, United States Navy.

National Anthem and "The USS Maine March" by The Bangor Band.

The Journal of yesterday was read and approved.

**SENATE PAPERS**  
**Divided Report**

Majority Report of the Committee on **Utilities and Energy** reporting **"Ought Not to Pass"** on Bill "An Act to Clarify the Intent of the Electric Rate Reform Act" (S.P. 253) (L.D. 691)

Signed:

Senators: CARPENTER of York  
HARRIMAN of Cumberland  
CLEVELAND of Androscoggin

Representatives: KONTOS of Windham  
TAYLOR of Cumberland  
GIERINGER of Portland  
POULIN of Oakland  
STONE of Bangor  
POIRIER of Saco

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-119) on same Bill.

Signed:

Representatives: ADAMS of Portland  
O'NEAL of Limestone  
LUTHER of Mexico  
HEESCHEN of Wilton

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

On motion of Representative JACQUES of Waterville, tabled until later today, pending acceptance of either Report.

**Divided Report**

Majority Report of the Committee on **Agriculture, Conservation and Forestry** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-107) on Bill "An Act to Ban the Tripping of Horses" (S.P. 316) (L.D. 897)

Signed:

Senators: CASSIDY of Washington  
LORD of York  
PARADIS of Aroostook  
Representatives: KNEELAND of Easton  
AHEARNE of Madawaska  
SPEAR of Nobleboro  
HICHBORN of Lagrange  
TYLER of Windham  
CROSS of Dover-Foxcroft  
DEXTER of Kingfield

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

Signed:

Representatives: HEESCHEN of Wilton  
STROUT of Corinth

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-107).

Was read.

On motion of Representative AHEARNE of Madawaska, the Majority **"Ought to Pass"** as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-107) was read and adopted. The Bill was assigned for second reading Thursday, May 11, 1995.

**Non-Concurrent Matter**

Bill "An Act to Reduce the Number of Days a Tenant May Be in Arrears for Rent Payments" (S.P. 76) (L.D. 164) which was passed to be engrossed as amended by Committee Amendment "A" (S-28) as amended by House Amendment "B" (H-183) thereto in the House on May 4, 1995.

Came from the Senate with the Bill and accompanying papers recommitted to the Committee on **Legal and Veterans Affairs** in non-concurrence.

The House voted to Recede and Concur.

**Non-Concurrent Matter**

Bill "An Act to Increase the Tax Exemption on Church Properties" (H.P. 284) (L.D. 388) on which the Majority **"Ought to Pass"** as amended Report of the Committee on **Taxation** was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-71) in the House on May 4, 1995.

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

Representative LOOK of Jonesboro moved that the House Insist.

On motion of Representative WHITCOMB of Waldo, tabled pending the motion of Representative LOOK of Jonesboro to Insist and later today assigned.

**COMMUNICATIONS**

The following Communication: (S.P. 554)  
**117TH MAINE LEGISLATURE**

May 8, 1995

Senator Philip E. Harriman

Representative G. Steven Rowe

Chairpersons

Joint Standing Committee on Business and Economic Development

117th Legislature

Augusta, Maine 04333

Dear Senator Harriman and Representative Rowe:

Please be advised that Governor Angus S. King, Jr. has nominated Carol A. Epstein of Brewer for appointment as a member of the Maine Real Estate Commission.

Pursuant to Title 32, MRSA Section 13062, this nomination will require review by the Joint Standing Committee on Business and Economic Development and confirmation by the Senate.

Sincerely,

S/Jeffrey H. Butland

President of the Senate

S/Dan A. Gwadosky

Speaker of the House

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

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

The following Communication: (S.P. 555)  
**117TH MAINE LEGISLATURE**

May 8, 1995

Senator Mary E. Small  
Representative John L. Martin  
Chairpersons  
Joint Standing Committee on Education and Cultural Affairs  
117th Legislature  
Augusta, Maine 04333  
Dear Senator Small and Representative Martin:

Please be advised that Governor Angus S. King, Jr. has nominated Alfred W. Kany, Jr. of Saco and Jana LaPoint of Falmouth for appointment as members of the Maine Technical College System Board of Trustees and Mark P. LeGassey of East Millinocket for appointment as a student member of the Maine Technical College System Board of Trustees.

Pursuant to Title 20-A, MRSA Section 12705, these nominations will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

Sincerely,  
S/Jeffrey H. Butland  
President of the Senate  
S/Dan A. Gwadosky  
Speaker of the House

Came from the Senate, read and referred to the Committee on **Education and Cultural Affairs**.

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

#### PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bill was received and, upon the recommendation of the Committee on Reference of Bills, was referred to the following Committee, Ordered Printed and Sent up for Concurrence:

#### Judiciary

Bill "An Act Authorizing the Judicial Supervision of the Disclosure of Utility Records to the Attorney General" (H.P. 1076) (L.D. 1515) (Presented by Representative THOMPSON of Naples) (Submitted by the Department of the Attorney General pursuant to Joint Rule 24.)

#### REPORTS OF COMMITTEES

##### Divided Report

Majority Report of the Committee on **Education and Cultural Affairs** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-218) on Bill "An Act Regarding School Employees Serving on School Boards" (H.P. 14) (L.D. 8)

Signed:

Senators: SMALL of Sagadahoc  
ESTY of Cumberland  
ABROMSON of Cumberland  
Representatives: AULT of Wayne  
BARTH of Bethel  
DESMOND of Mapleton  
CLOUTIER of South Portland  
MARTIN of Eagle Lake  
LIBBY of Buxton

McELROY of Unity  
BRENNAN of Portland  
WINN of Glenburn

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

Signed:

Representative: STEVENS of Orono  
Was read.

Representative MARTIN of Eagle Lake moved that the House accept the Majority **"Ought to Pass"** as amended Report.

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

#### Divided Report

Majority Report of the Committee on **State and Local Government** reporting **"Ought Not to Pass"** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Create the Office of Lieutenant Governor (H.P. 82) (L.D. 118)

Signed:

Senators: AMERO of Cumberland  
CARPENTER of York  
LONGLEY of Waldo  
Representatives: LANE of Enfield  
SAVAGE of Union  
YACKOBITZ of Hermon  
ROBICHAUD of Caribou  
SAXL of Bangor  
DAGGETT of Augusta

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-202) on same RESOLUTION.

Signed:

Representatives: AHEARNE of Madawaska  
LEMKE of Westbrook  
GERRY of Auburn  
ROSEBUSH of East Millinocket

Was read.

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

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

Representative LEMKE: Thank you Mr. Speaker, Men and Women of the House: I urge you to vote against the pending motion which is "Ought Not to Pass". What this bill would do, or at least the amendment that might be sent out to the people to vote on would do is two things.

First it would create the office of Lieutenant Governor, Forty-eight states of the United States already have a Lieutenant Governor. There is one basic reason. It is the same reason why we have a Vice President of the United States on the federal level and that is if anything should happen to the Governor and the question of succession comes up, the succession would then go to an individual who has a statewide basis of support in a general election, rather than as it is now an individual who has the support of the percentage of 135th in effect of the state electorate. That, very simply and very briefly, is the rationale to have a Lieutenant Governor.

Second and last point, the main argument made against having an office of Lieutenant Governor is the same argument often raised about why do have a Vice President. What is he or she going to do, sit

around waiting for the Governor or the President to vacate the office. And what this bill also does, as a result of an amendment introduced by another legislator and accepted into this bill as amended is it abolishes the Office of Secretary of State and the duties now performed by the Secretary of State will be performed by the Lieutenant Governor. The second advantage of this bill is that we are not creating a new office, we are strengthening and clarifying a particular office. Those, ladies and gentlemen are the two arguments on behalf of this bill. I therefore ask you to vote against the pending motion so we can go on to vote for this particular legislation. Thank you.

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

Representative DAGGETT: Thank you Mr. Speaker, Men and Women of the House. I think that the direction of this bill has been pretty well explained by Representative Lemke. That it changes the succession in the off chance that something should happen to the Governor. It changes it to a Lieutenant Governor and then it would abolish the Secretary of State's position and the Secretary of State's position would be done the Lieutenant Governor.

I think there was a lot of feeling on the committee that there was not a real problem with the current system and also the bill has been opposed by the current administration. There seems to be no support for the bill. No one appeared to speak in favor of it and a lot of people felt that the current system seemed to be working and that there was really no need to make a change.

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

The SPEAKER: A roll call has been requested. For the Chair to order a roll 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. 81

YEA - Adams, Ault, Bailey, Benedikt, Berry, Bouffard, Brennan, Buck, Bunker, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Daggett, Damren, Davidson, DiPietro, Dore, Driscoll, Dunn, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gooley, Green, Greenlaw, Guerrette, Hartnett, Hatch, Heesch, Heino, Jacques, Johnson, Jones, S.; Joyce, Joyner, Keane, Kerr, Kneeland, Kontos, Labrecque, LaFountain, Lane, Lemaire, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Luther, Madore, Marshall, Marvin, Mayo, McAlevey, Meres, Mitchell EH; Mitchell JE; Murphy, Nadeau, Nass, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Pinkham, Poirier, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Richardson, Ricker, Robichaud, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Spear, Stedman, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tuttle, Tyler, Underwood, Vigue, Waterhouse, Wheeler, Winglass, Winsor, Yackobitz.

NAY - Ahearne, Barth, Birney, Cameron, Cross, Desmond, Dexter, Farnum, Gerry, Gould, Hichborn, Jones, K.; Joy, Layton, Lemke, Martin, Morrison,

Nickerson, Perkins, Plowman, Rosebush, Simoneau, Sirois, Stevens, Tufts, Volenik, Whitcomb, Winn.

ABSENT - Aikman, Bigl, Campbell, Donnelly, Joseph, Kilkelly, McElroy, Rotondi, Truman, Watson, The Speaker.

Yes, 112; No, 28; Absent, 11; Excused, 0.

112 having voted in the affirmative and 28 voted in the negative, with 11 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

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

House Divided Report - Committee on Education and Cultural Affairs - (12) Members "Ought to Pass" as amended by Committee Amendment "A" (H-218) - (1) Member "Ought Not to Pass" on Bill "An Act Regarding School Employees Serving on School Boards" (H.P. 14) (L.D. 8) which was tabled by Representative MARTIN of Eagle Lake pending his motion to accept the Majority "Ought to Pass" as amended Report.

Subsequently, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-218) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, May 11, 1995.

Bill "An Act to Increase the Tax Exemption on Church Properties" (H.P. 284) (L.D. 388) which was tabled by Representative WHITCOMB of Waldo, pending the motion of Representative LOOK of Jonesboro to Insist

- Bill passed to be engrossed as amended by Committee Amendment "A" (H-71) in the House on May 4, 1995.

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

On motion of Representative MURPHY of Berwick, the House voted to Insist and ask for a Committee of Conference.

#### Divided Report

Eleven Members of the Committee on Utilities and Energy on Bill "An Act to Amend the Notification Requirements Regarding Automated Telephone Solicitation" (H.P. 100) (L.D. 135) reporting in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-214)

Signed:

Senator:

Representatives:

CARPENTER of York  
KONTOS of Windham  
ADAMS of Portland  
TAYLOR of Cumberland  
GIERINGER of Portland  
O'NEAL of Limestone  
POULIN of Oakland  
LUTHER of Mexico  
STONE of Bangor  
HEESCHEN of Wilton  
POIRIER of Saco

One Member of the same Committee on same Bill reporting in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-215)

Signed:

Senator:

HARRIMAN of Cumberland

One Member of the same Committee on same Bill reporting in Report "C" that the same **"Ought to Pass"** as amended by Committee Amendment "C" (H-216)

Signed:

Senator: CLEVELAND of Androscoggin

Was read.

On motion of Representative KONTOS of Windham Report "A" **"Ought to Pass"** as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-214) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, May 11, 1995.

#### Divided Report

Majority Report of the Committee on Taxation reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-208) on Bill "An Act to Repeal the Snack Tax" (H.P. 144) (L.D. 192)

Signed:

Senators: HATHAWAY of York  
FERGUSON of Oxford  
CAREY of Kennebec

Representatives: TRIPP of Topsham  
TUTTLE of Sanford  
KEANE of Old Town  
MURPHY of Berwick  
GREEN of Monmouth  
SPEAR of Nobleboro  
DUNN of Gray  
REED of Falmouth

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

Signed:

Representatives: RICHARDSON of Portland  
DORE of Auburn

Was read.

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

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

#### Divided Report

Majority Report of the Committee on Human Resources reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-198) on Bill "An Act to Limit Copayments for Participants in Medicaid Managed Care Demonstration Projects" (H.P. 233) (L.D. 313)

Signed:

Senator: PINGREE of Knox  
Representatives: FITZPATRICK of Durham  
JOHNSON of South Portland  
SHIAH of Bowdoinham  
ETNIER of Harpswell  
MITCHELL of Portland  
JONES of Bar Harbor

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

Signed:

Senators: PENDEXTER of Cumberland  
BENOIT of Franklin  
Representatives: JOYNER of Hollis  
MARVIN of Cape Elizabeth  
WINGLASS of Auburn  
LOVETT of Scarborough

Was read.

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

On further motion of the same Representative, tabled pending his motion to accept the Majority **"Ought to Pass"** 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" (H-43) on Bill "An Act to Allow Election Officials to Request Identification from Prospective Voters" (H.P. 251) (L.D. 353)

Signed:

Senators: FERGUSON of Oxford  
STEVENS of Androscoggin

Representatives: LABRECQUE of Gorham  
GAMACHE of Lewiston  
FISHER of Brewer  
CHIZMAR of Lisbon  
TRUE of Fryeburg  
LEMONT of Kittery  
NADEAU of Saco  
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

Was read.

On motion of Representative NADEAU of Saco, the Majority **"Ought to Pass"** as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-43) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, May 11, 1995.

#### Divided Report

Majority Report of the Committee on Judiciary reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-209) on Bill "An Act to Amend the Provisions Relating to Access to Information for Candidates for Government Job Openings" (H.P. 264) (L.D. 366)

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  
MADORE of Augusta  
PLOWMAN of Hampden

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

Signed:

Senator: PENDEXTER of Cumberland  
Representatives: NASS of Acton  
HARTNETT of Freeport

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

Eight Members of the Committee on Judiciary on Bill "An Act to Amend the Laws Governing Wrongful Death Caused by Truck Drivers" (H.P. 292) (L.D. 396) reporting in Report "A" that the same **"Ought to Pass"** as amended by Committee Amendment "A" (H-212)

Signed:

Senators: MILLS of Somerset  
FAIRCLOTH of Penobscot  
Representatives: TREAT of Gardiner  
JONES of Bar Harbor  
LaFOUNTAIN of Biddeford  
WATSON of Farmingdale  
HARTNETT of Freeport  
MADORE of Augusta

Three Members of the same Committee on same Bill reporting in Report "B" that the same **"Ought Not to Pass"**

Signed:

Senator: PENDEXTER of Cumberland  
Representatives: NASS of Acton  
PLOWMAN of Hampden

Two Members of the same Committee on same Bill reporting in Report "C" that the same **"Ought to Pass"** as amended by Committee Amendment "B" (H-213)

Signed:

Representatives: RICHARDSON of Portland  
LEMKE of Westbrook

Was read.

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

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

#### Divided Report

Majority Report of the Committee on Judiciary reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-211) on Bill "An Act to Ensure Children's Rights Concerning Visitation and Access" (H.P. 341) (L.D. 461)

Signed:

Senator: PENDEXTER of Cumberland  
Representatives: TREAT of Gardiner  
JONES of Bar Harbor  
WATSON of Farmingdale  
HARTNETT of Freeport  
MADORE of Augusta  
NASS of Acton  
RICHARDSON of Portland  
LaFOUNTAIN of Biddeford  
PLOWMAN of Hampden  
LEMKE of Westbrook

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

Signed:

Senators: MILLS of Somerset  
FAIRCLOTH of Penobscot

Was read.

On motion of Representative TREAT of Gardiner, the Majority **"Ought to Pass"** as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-211) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, May 11, 1995.

#### Divided Report

Majority Report of the Committee on Judiciary reporting **"Ought Not to Pass"** on Bill "An Act Concerning Grandparents' Rights of Visitation and Custody" (H.P. 364) (L.D. 484)

Signed:

Senators: MILLS of Somerset  
FAIRCLOTH of Penobscot  
Representatives: TREAT of Gardiner  
JONES of Bar Harbor  
LaFOUNTAIN of Biddeford  
WATSON of Farmingdale  
HARTNETT of Freeport  
MADORE of Augusta  
NASS of Acton

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-210) on same Bill.

Signed:

Senator: PENDEXTER of Cumberland  
Representatives: LEMKE of Westbrook  
RICHARDSON of Portland  
PLOWMAN of Hampden

Was read.

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

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

#### Divided Report

Majority Report of the Committee on State and Local Government reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-200) on Bill "An Act Concerning Municipal Rent Control" (H.P. 474) (L.D. 655)

Signed:

Senators: CARPENTER of York  
AMERO of Cumberland  
Representatives: DAGGETT of Augusta  
ROSEBUSH of East Millinocket  
ROBICHAUD of Caribou  
LANE of Enfield  
SAVAGE of Union  
YACKOBITZ of Hermon  
AHEARNE of Madawaska

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "B" (H-201) on same Bill.

Signed:

Senator: LONGLEY of Waldo  
Representative: GERRY of Auburn

Was read.

On motion of Representative DAGGETT of Augusta, the Majority **"Ought to Pass"** as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-200) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, May 11, 1995.

**Divided Report**

Majority Report of the Committee on Inland Fisheries and Wildlife reporting **"Ought Not to Pass"** on Bill "An Act to Allow Hunting on the First Sunday after the First Saturday of Hunting Season" (H.P. 649) (L.D. 872)

Signed:

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

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-221) on same Bill.

Signed:

Representative: UNDERWOOD of Oxford

Was read.

On motion of Representative JACQUES of Waterville, the Majority **"Ought Not to Pass"** Report was accepted and sent up for concurrence.

**Divided Report**

Majority Report of the Committee on Criminal Justice reporting **"Ought Not to Pass"** on Bill "An Act Authorizing Work-restricted Drivers' Licenses for Certain Habitual Motor Vehicle Law Offenders" (H.P. 672) (L.D. 923)

Signed:

Senators: BENOIT of Franklin  
HALL of Piscataquis  
O'DEA of Penobscot  
Representatives: CLARK of Millinocket  
BUNKER of Kossuth Township  
CLUKEY of Houlton  
GOOLEY of Farmington  
McALEVEY of Waterboro  
PEAVEY of Woolwich  
THOMPSON of Naples  
WATERHOUSE of Bridgton  
WHEELER of Bridgewater

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-203) on same Bill.

Signed:

Representative: JOHNSON of South Portland

Was read.

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

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

Representative JOHNSON: Thank you. The intent of this bill is to allow a person whose license has been revoked, for a second time, under the habitual offender statutes to be eligible for a work restricted license as long as the new offense is not an OUI.

This bill hopes to help that person who commits a minor violation. The license is suspended and therefore loses a job and is forced onto welfare. What we're looking for is simply to petition the

Secretary of State for a work restricted license if the new conviction is operating after suspension. The only reason for a suspension was a failure to appear in court, pay a fine or fail to produce evidence of insurance or proof of financial responsibility. I move the acceptance of the Minority Report. Thank you.

The Chair ordered a division on the motion to accept the Majority **"Ought Not to Pass"** Report.

A vote of the House was taken. 95 voted in favor of the same and 5 against, the Majority **"Ought Not to Pass"** Report was accepted and sent up for concurrence.

**CONSENT CALENDAR****First Day**

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

(S.P. 369) (L.D. 1046) Bill "An Act to Amend the Displaced Homemakers Act" Committee on Labor reporting **"Ought to Pass"**

(S.P. 424) (L.D. 1147) Bill "An Act to Increase Capitalization of the Seal Harbor Water Company" Committee on Utilities and Energy reporting **"Ought to Pass"**

(H.P. 162) (L.D. 210) Bill "An Act to Expand the Membership of the Loring Development Authority of Maine" Committee on Business and Economic Development reporting **"Ought to Pass"**

(H.P. 856) (L.D. 1187) Bill "An Act to Allocate the State Ceiling Governing the Issue of Private Activity Bonds" (EMERGENCY) Committee on Business and Economic Development reporting **"Ought to Pass"**

(H.P. 915) (L.D. 1291) Bill "An Act to Amend the Income Eligibility Criteria of the Small Community Wastewater Program" Committee on Natural Resources reporting **"Ought to Pass"**

(H.P. 924) (L.D. 1305) Bill "An Act to Clarify the Supervision of Juveniles Under Observation" Committee on Criminal Justice reporting **"Ought to Pass"**

(H.P. 653) (L.D. 876) Resolve, to Require the Department of Agriculture, Food and Rural Resources to Establish a Revolving Loan Fund to Increase Agricultural Growth in the State Committee on Agriculture, Conservation and Forestry reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-225)

(H.P. 732) (L.D. 1006) Bill "An Act to Amend the Law to Provide for the Notification of Immediate Family Members of Homicide Victims" Committee on Criminal Justice reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-222)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 11, 1995 under the listing of Second Day.

(S.P. 422) (L.D. 1145) Bill "An Act to Require Unanimous Approval by the Hancock County Commissioners to Change the Recommendations of the Budget Committee" Committee on State and Local Government reporting **"Ought to Pass"**

On motion of Representative BIGL of Bucksport was removed from the First Day Consent Calendar.

The Report was read and accepted. The Bill was read once. The Bill was assigned for second reading Thursday, May 11, 1995.



### CONSENT CALENDAR Second Day

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

(H.P. 708) (L.D. 965) Bill "An Act to Protect Maine's Maritime Heritage"

(H.P. 848) (L.D. 1179) Resolve, to Name a Mountain in the Town of Oxford

(H.P. 861) (L.D. 1192) Bill "An Act Concerning the Office of Geographic Information Systems"

(H.P. 167) (L.D. 215) Bill "An Act to Amend the Laws Regarding Consent Agreements of the Department of Environmental Protection" (C. "A" H-220)

(H.P. 592) (L.D. 802) Bill "An Act to Enhance Criminal Penalties for Hate Crimes" (C. "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" (C. "A" H-219)

(H.P. 783) (L.D. 1100) Bill "An Act to Appropriate Funds to the Baxter State Park Authority for Road Maintenance" (C. "A" H-207)

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

### BILLS IN THE SECOND READING As Amended

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) (C. "A" H-205)

Bill "An Act to Protect the Rights of Employees and to Ensure the Proper Expenditure of Public Funds" (H.P. 262) (L.D. 364) (C. "A" H-112)

Bill "An Act to Amend the Sales Tax Exemption for Emergency Shelter and Feeding Organizations" (H.P. 390) (L.D. 525) (C. "A" H-199)

Resolve, to Encourage the Harvest of Coyotes (H.P. 583) (L.D. 793) (C. "A" H-194)

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) (C. "A" S-98)

Bill "An Act to Clarify the Display of Social Security Numbers on Insurance-related Identification Cards" (EMERGENCY) (S.P. 345) (L.D. 950) (C. "A" S-103)

Bill "An Act to Provide a 3-day Nonresident Small Game Hunting License" (H.P. 734) (L.D. 1008) (C. "A" H-217)

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.

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

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

House Divided Report - Committee on Judiciary - (8) Members Report "A" "Ought to Pass" as amended by Committee Amendment "A" (H-212) - (3) Members Report "B" "Ought Not to Pass" - (2) Members Report "C" "Ought to Pass" as amended by Committee Amendment "B" (H-213) on Bill "An Act to Amend the Laws Governing Wrongful Death Caused by Truck Drivers" (H.P. 292) (L.D. 396) which was tabled by Representative TREAT of Gardiner pending her motion to accept Report "A" "Ought to Pass" as amended.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative TREAT.

Representative TREAT: Thank you Mr. Speaker, Men and Women of the House: If you turned to page nine of your printed calendar, you would have seen that there is a three part report coming from the Judiciary Committee. As Chair of that Committee for the House, I was not really looking forward to explaining to you the complexities of that three part Report. I am happy to be able to tell you that as of this morning all of the House members of the Judiciary Committee have agreed to vote for Part A and that includes two people going on one and three on another, everyone is in agreement. We would like you to join with us in voting for Part A.

I am going to tell you what it does, because I know this has been a very complex issue. It's involved an awful lot of debate on all sides of the issue. It's been very emotional, there's been a lot of reports in the press, some of which have been difficult to decipher. I guess that's a diplomatic way to put it, but I think that some of it has not really helped in terms of seeing our way clear on this.

This is an issue that the Judiciary Committee worked really, really hard on. We had a lot of work sessions. We came up with all kinds of different alternatives and we are settling on this Report A.

Let me just explain to you what it does. There are going to be members of the committee standing up who have previously represented the different points of view. This is to give you their perspective on why you should support this amendment. The amendment, if you want to find it on your desk, is Amendment H-212, if you wanted to follow along with me. What this amendment does is it amends a portion of our motor vehicle laws that are currently in effect. That provision of our motor vehicle laws say that if a person violates or knowingly permits a violation of the subchapter and the subchapter refers to a wide variety of regulations that have been adopted by the State governing trucking, that violation results in a Class E crime. What the amendment does is it says under certain circumstances, which basically aggravate the nature of this crime, it can be bumped up to a Class C crime. There's a parallel here, we got the idea to do this from other provisions in our law, the OUI provisions for example say the same thing. There is a Class D crime, but if you commit it knowing that you are doing something that is going to harm someone then the penalty is greater. It seemed an appropriate thing to do. The aggravating factors are as follows: the violation must have been knowing or intentional; the violation, in fact, does cause the death or serious injury of someone whose health and safety was intended to be protected by the regulation that was violated and the death or injury was a reasonably foreseeable consequence of the violation. Someone could have foreseen that this person would

have been injured or would have died as a result of their violating this regulation on purpose. That is basically what it says.

I want to make it clear that this is not a change in our manslaughter laws. It is not a change in our workplace manslaughter laws. It is in the motor vehicle provisions. The effect is that someone, who right now could get six months in jail for this type of aggravated offense, could get up to five years. It makes it much more significant, but the underlying provision remains basically the same and it is consistent with how we treat other things within the motor vehicle laws.

I would encourage you to support this report and if you have questions, we would be happy to answer them. We are hoping that we don't need to get into a two hour debate on this, but we do want people to know what we are recommending and to be able to be very clear on it. 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 rise today to support the Majority "Ought to Pass" as amended Report of the Judiciary Committee. This is a good fair compromise reflecting months of deliberation on this important issue. I commend the Judiciary Committee for coming together and presenting to you such a good piece of legislation.

Representative Treat has succinctly described the bill and I do not intend to debate it on the floor. Ladies and gentlemen the debate has gone on long enough on this bill and on this issue. Our duty today is not to revisit that debate, but to vote. Now is the time and I encourage a vote in support of the Judiciary Committee unanimously on this issue.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative PLOWMAN.

Representative PLOWMAN: Thank you Mr. Speaker, Men and Women of the House: The Judiciary Committee this morning agreed with the House members on this unanimous report. I would like to put on the record my concern, which led me to vote against this in committee, which is still a concern to me, but I would like to put it on the record for the future.

When we pass laws that have criminal sanctions, I like to look to see if the person who is actually responsible will be the person who is actually going to be serving the sentence. My hesitation in voting for this earlier was that a person charged with a Class C might cut a deal with the prosecutor regarding supervisor. It is still one of my concerns. We are going to have to trust the system to make sure that this is not something that happens. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative CAMERON: To anyone in the House that may be able to answer the question. The way the amendment reads, it creates a new Class C crime covering situations with the federal trucking regulation. Can you tell me if that reference is to the Interstate Commerce Commission regulations dealing with log books and so forth and also can you tell me if that is the case, what percentage of the

trucks in this State will this actually apply to? It strikes me as a very small group.

The SPEAKER: The Representative from Rumford, Representative Cameron has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Thank you Mr. Speaker, Men and Women of the House: It refers to regulations which have been adopted by the state of Maine which may include log book provisions. It also includes other things, one of the things that the committee wanted to do was not just to pick out log books, which I realize was a major thorny issue that was debated, but instead to focus on violations of regulations which are known to protect the health and safety of the public in this case, which are violated and lead to death or injury. It could include log book but it could include other things. It seemed an appropriate thing to do and we hope you will support this approach.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Clukey.

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

The SPEAKER: The Representative may pose his question.

Representative CLUKEY: I am reading from the amendment and Section 1, Subsection 1 violation, a person commits a Class E if that person violates or knowingly commits a violation of this Subchapter or a rule adopted pursuant to this Subchapter and then underlined, the violation is a Class C crime, the violation is knowingly or intentional. Could somebody answer the question? It seems that E and C contradict each other.

The SPEAKER: The Representative from Houlton, Representative Clukey has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Thank you Mr. Speaker. In response to your question. This is very consistent with what we do in other provisions of the motor vehicle code. You set a violation and then you say there are certain aggravating circumstances that would bump the crime up to a higher level to impose a higher penalty. For example, this is not to draw any parallels with someone who has committed an OUI violation, but just for an example, in the OUI provisions there is, in fact, a very similar provision that says something that is a Class D crime is bumped up to a Class C crime if certain aggravating factors are met and those are similar in terms of foreseeability, intentional nature of the act and that sort of thing. We felt this was a very reasonable compromise, it makes sense, it fits the punishment to the nature of the violation, but no more than that.

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

Representative WINGLASS: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I would like to take this moment and thank the Representative from Old Orchard Beach in giving me microphone handling instructions, I was able to figure that out. Thank you very much George.

For well over a year I along with many others from this body have observed and at times participated in the activities of the PAT organization. Their

devotion to task and determination to make our highways safe for all and I repeat that for all who use them has been admirable. Their exceptional work ethic has consistently been demonstrated in a pragmatic and businesslike way. They have been ladies and gentlemen as they have gone about their tasks.

Now we have the fate of Report A in our hands. This report supported by a bipartisan majority and perhaps all of the Judiciary Committee is to be applauded. In addition to the committee it is my understanding that nearly all, if not all, of the constituents in the transportation of public safety arena have reached the conclusion that this bill in its current form is acceptable.

This frankly is unsurprising to me, for all along I have just had one point of view on all of this and that is, if you follow the rules you really will experience no difficulty, as a matter of fact, lives will be saved.

I hope you will join the PAT initiative and those of us in support of that initiative and support this motion "Ought to Pass" as amended.

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

Representative CAMERON: Thank you Mr. Speaker. I don't mean to belabor the issue and I can't say that I am opposed to what we are doing. I'm still not clear what we're doing. The reason that I'm not clear, and I guess that I didn't make my question clear to begin with.

If the reference is in the amendment where it references federal trucking regulations and those I think are ICC regulations, my question about this is and I'll use log book violations as an example. Log book violations or log books period are only kept by operators that cross state lines. ICC regulations don't apply to drivers who don't cross the state line. I'm not saying that what we're doing is right or wrong, because I'm still listening and will probably end up supporting this, but I don't want to support a law that creates two classes of drivers and they will be held to a different standard of law.

I'm still not clear on the answer I got whether or not we're going to be doing this and I will stick to log books because that's the one thing that I think really brings this issue to the forefront. Again I emphasize, if you don't cross the state line then you don't keep a log book. So I'm not sure how we can enforce this law equally. Again, I'm not opposed to the law, I think it makes sense, but we have to have a mechanism that does this equally and it strikes me that the majority of the trucks that we refer to and I emphasize, we're talking about when we say we hear and read about a 10,000 pound truck is pick-up. I have a pick-up truck that's rated for 10,000 pounds so we're not just talking about eighteen wheelers and tractor trailers and that's why I asked the question because it seems to me that this bill, the way it's written and refers to federal regulations, I know it says adopted by the state of Maine, but the state of Maine has not adopted any log book regulations and people that drive 10,000 pound pick-ups don't keep log books and they do cause accidents. I also have another question in reference to who is held liable and it references the truck company and I'm not sure how we hold a truck company liable in a Class E crime. Thank you.

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Thank you Mr. Speaker, Men and Women of the House. In trying to respond to Representative Cameron's question. It is my understanding that there are several exemptions to the log book requirements, but in state, out of state or interstate is not one of them. In fact, the exception that you may be referring to involves a 100 mile radius exception to the log book use. While there are some exemptions, there are a lot of trucks in Maine who originate here, who drive all day and end up in Maine that are still covered by log books.

I think though overall, the attempt is to get away from the log book issue. The log book system was developed back in the late 1930's and is fraught with problems. We are however, not going to solve this at the state level. It is part of the Federal Motor Carrier Safety Regulations and all over the country people do not see the reasonableness or the need to continue the use of these log books. However, it is not within our purview to make changes in that. What is within our purview is to provide for enforcement of motor vehicles, especially the large trucks and we are currently not doing that to any satisfactory level.

To answer again, to answer Representative Cameron's question, log books should not be the focus of this. The amendment in front of you H-212 currently has wording for providing what a violation is. The words are being added. As Representative Treat indicated essentially speak to a greater problem. It is handled the same way we handle the OUI problems and I urge your support for this effort. Thank you.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Thank Mr. Speaker. To respond to the second part of the Representatives question which concerns liability for those who were not the drivers, but the company. Current law says that a person commits this Class E crime if that person violates or knowingly permits a violation of it. That's current law. We did not change that current law. What we changed was the penalty if that violation was knowing or intentional and causes death or injury to someone who was intended to be protected by the regulation that was violated and the death or injury is a reasonably foreseeable consequence of that violation. I think to hold a company liable under this provision you have to prove a lot of things to have that happen. It would only happen, I would think, in cases where it was extremely clear that the problem came from the company and not from the employee. I urge your support of the pending motion. Thank you.

The Chair ordered a Division on the motion to accept Report "A" "Ought to Pass" as amended.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Thank you Mr. Speaker, Men and Women of the House: Just briefly, these are the safety regulations that the state of Maine adopts. They come from the Department of Transportation, Title 49, Code of Federal Regulations, Parts 40, 325, 382, 383, 385, 386, 387, 390 through 397 and 399. These are the regulations that truckers, who are long distance truckers, have to operate under. These are what the state of Maine adopts as part of our laws and these are the regulations that would be enforced under them. What

you have heard is that there are three objectives that must be met in order to reach a Class C. It can not be a 15 minute log violation. A 15 minute log violation will not be something that leads to prosecution under this. Driving over hours, causing someone to be less than steady on the road, causing serious injury or death would be something. We specifically realized that there are things in here that you wouldn't want to have as a technical way of getting someone into court. We tried to cover that in the amendment. Thank you.

Representative JACQUES of Waterville requested a roll call on the motion to accept Report "A" "Ought to Pass" as amended.

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. 82

YEA - Adams, Benedikt, Berry, Bouffard, Brennan, Buck, Chartrand, Chase, Chick, Chizmar, Cloutier, Davidson, Desmond, DiPietro, Dore, Etnier, Fisher, Fitzpatrick, Gamache, Gerry, Gooley, Green, Greenlaw, Hartnett, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Keane, Kerr, Kontos, LaFountain, Layton, Lemaire, Lemke, Lemont, Libby JD; Luther, Madore, Mayo, Meres, Mitchell EH; Mitchell JE; Nadeau, Nass, O'Neal, Paul, Plowman, Poirier, Pouliot, Reed, G.; Richardson, Ricker, Rotondi, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Stevens, Stone, Townsend, Treat, Tripp, Tufts, Tuttle, Tyler, Underwood, Vigue, Volenik, Whitcomb, Winglass, Winn, Yackobitz.

NAY - Ahearne, Ault, Bailey, Barth, Birney, Bunker, Cameron, Carleton, Clark, Clukey, Cross, Daggett, Damren, Dexter, Donnelly, Driscoll, Dunn, Gates, Gieringer, Gould, Guerrette, Heino, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Libby JL; Lindahl, Look, Lovett, Lumbra, Marshall, Martin, Marvin, McAlevy, McElroy, Murphy, Nickerson, O'Gara, Ott, Peavey, Pendleton, Perkins, Pinkham, Poulin, Povich, Reed, W.; Rice, Robichaud, Rosebush, Spear, Stedman, Strout, Taylor, Thompson, True, Waterhouse, Wheeler, Winsor.

ABSENT - Aikman, Bigl, Campbell, Farnum, Joseph, Kilkelly, Morrison, Truman, Watson, The Speaker.

Yes, 79; No, 62; Absent, 10; Excused, 0.

79 having voted in the affirmative and 62 voted in the negative, with 10 being absent, Report "A" "Ought to Pass" as amended was accepted.

The Bill was read once. Committee Amendment "A" (H-212) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, May 11, 1995.

#### UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (10) "Ought to Pass" as amended by Committee Amendment "A" (H-175) - Minority (3) "Ought Not to Pass" - Committee on Appropriations and Financial Affairs on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Line-item Veto (H.P. 729) (L.D. 1003) TABLED - May 4, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Motion of Representative KERR of Old Orchard Beach to accept the Majority "Ought to Pass" as amended Report.

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

Representative Townsend: Thank you Mr. Speaker, Men and Women of the House: It is an awkward situation for me today to rise to speak against my Chair. However, I would urge you to join me in voting for the Minority "Ought Not to Pass" Report on the Line-item Veto.

This is of course a Constitutional Amendment and I want to repeat the words I said last night. I feel that we ought to be extremely cautious about amending our Constitution. I have not yet heard a convincing reason why we need to change the Constitution to give the Governor the Line-item Veto. I want to point out that we've had so far this year two unanimous reports out of the Committee on Appropriations and Financial Affairs. Two unanimous supplemental budgets. I also want to point out that the voters have given us one of the best checks and balances available in the political system. That is a balance of power through the balance that we have distributed throughout these two bodies. The other body has now held narrowly by one party with one independent Senator in the balance. This body is held narrowly by another with a wide divergence of opinion in either caucus and, of course, we have an Independent Governor. I think that is an extremely important check and balance in the system. Thirdly, I feel that the Line-item Veto, is the most important issue for me. It undermines the principle of compromise. This is only my second term in this body, but I learned pretty quickly that in order to get something that I wanted in a budget I was going to have to give a little. I ended up voting for some pretty stinky things last time around. I did it because that is the nature of compromise. If we have a Line-item Veto what reassurance do I have, what reason do I have to compromise. If the items which I gained by giving up a little, can than be vetoed after the fact. It undermines the entire principles of compromise. Fourthly, I have to point out that this bill is especially troubling to me because it applies not only to budgets, but to any bill with an allocation or allotment in it. That is something to be extremely cautious about. So I would urge you to join me in voting for the Minority "Ought Not to Pass". Thank you very much.

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

Representative DONNELLY: Thank you Mr. Speaker, Men and Women of the House: As a member of the committee who is in support of Representative Kerr's proposal, and I compliment him for drafting, what I consider a fine line compromise on what a Line-item Veto means. Line-item Veto in this case, we had a number of proposals before us and they went from one extreme, which was a very heavy handed strong Line-item Veto to what I consider Representative Kerr's, which balanced the power of the Executive

under this proposal and the continuing authority of this Legislative body.

I think someone else will lay out the particulars, I just saw Representative Kerr looking at his sheet. Let me give you a good reason to vote for it. Having heard the previous speaker, I agree, maybe in the environment we're in today, the Line-item Veto is not as important. We do have a balance of power. You do not amend the Constitution of the state of Maine for what is in existence just today. The Constitution is something that will live hopefully, beyond our service here and hopefully, far beyond any of our service on this earth.

The reason to amend the Constitution to have a Line-Item veto is history. We have not always had the balance we have now. Maine has had a long history of one party control, both parties in both ends with a different party in the governorship. In those instances the Line-item Veto is a thing that would make the Governor, who is elected by the people statewide, the significant negotiator and player.

Representative Kerr's amendment to the Constitution would only require a majority vote to override the Governor's Line-item Veto. The Governor only has one day to make that decision and that's only after we pass it down to him, so we are likely to still be in session, we're likely to still be here and we're likely to still be participants in this process. I think it's a perfectly reasonable move. I think it's a move that most other states have provided to their Governors and now our Congress, which is divided between parties is extending to the President of the United States. I think it's perfectly reasonable and in order for us to control spending and set priorities statewide it's an item we ought to amend the Constitution with. I would urge your support, a two-thirds support to show a strong vote of support for this bill. Thank you.

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

Representative SIMONEAU: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I come to these votes on Constitutional amendments from a different perspective. I voted in committee to have this one come to the floor. Whether I agree with the line-item veto is immaterial. The facts are that the people of Maine cannot even address a question of changing our Constitution unless we give them the opportunity to do that.

Issue after issue, we debate the issue on the floor, I don't think it's the issue, the issue is do we give the people of Maine the opportunity to gather the facts around a certain issue and make an informed decision as to what they want in their Constitution.

In the last session we had one here on a Constitutional Convention, and I'll never forget what Representative Martin from Eagle Lake said when he finished his speech. He said why are you afraid of the people who sent you here and that applies here also.

Now I've heard the word democracy kicked around here quite a bit the last couple of days on these issues. If I'm not mistaken, the root word of the word democracy is demos "people" and those are the ones who send us here. I spent a lot of time in Washington. One of my favorite places there is the Jefferson Memorial. I heard his name kicked around yesterday also and I can't quote it verbatim, but if you go to the Jefferson Memorial you look in the

rotunda you will see words to the affect that Constitutions and Institutions are made by men and they must be changed from time to time to reflect the times.

That's where I come from on Constitutional amendments. We stop them. We block them. We do it every time, yet, when are we going to have the courage to say to the people of Maine, yes, we trust you to exercise that common sense that you have. We trust you people that go to a town meeting every year and gather facts and generally you make a proper decision. So why can't we trust the people that sent us here to gather the facts on a Constitutional amendment and make the proper decision. In my way of thinking it isn't whether you are for or against a Line-item Veto. It's whether you are for or against sending it out to the people and giving them a chance. Thank you.

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

Representative CHASE: Thank you Mr. Speaker, Men and Women of the House. I think we have two issues here. One is how we feel about Constitutional amendments and sending issues to the people the other is what we send to the people.

This bill makes me very nervous, now partially that's because I don't like Line-item Veto at all. I must say I'm not much in favor of any President having one, let alone any Governor it has nothing to do with the party or the executive. But this particular bill makes me even more nervous than usual. I also have a problem as Representative Townsend has raised with the fact that this applies to any bill and piece of legislation that has an appropriation or allocation, not simply part of a budget.

Another thing that makes me nervous is the language that says that the Chief Executive can substitute for any item. The Chief Executive has offered us a document which is the budget that his branch has put together and is offered to the Legislative branch for approval. If two-thirds of this body approve that document I say that is great we've probably had our fights. For the Chief Executive to then take a piece of it out and replace it with something else as long as there is no change in legislation makes me extremely nervous. I don't know what's going to happen with this one and the initial language of the bill it says may replace any item or items. I'm not sure that in practice this will mean what it would mean to most of us when we think of Line-item Veto. Okay eliminate an expenditure of a certain sort. All of this stuff makes me very, very nervous and unless I was extremely comfortable with the bill I would surely not then want to send it to the people and amend our Constitution with it. Thank you very much.

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

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

The SPEAKER: The Representative may pose his question.

Representative AHEARNE: Thank you Mr. Speaker. To any member of the committee. Will this Line-item Veto allow the Executive to delete/add sentences or add comas, periods or conjunctions?

The SPEAKER: The Representative from Madawaska, Representative Ahearne has posed a question through

the Chair to anyone who may care to respond. The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Thank you Mr. Speaker, Men and Women of the House. This would not allow the Governor to replace language, it would allow him to remove or reduce. Thank you.

Representative WATERHOUSE of Bridgton requested the Clerk to read the Committee Report.

The same Representative requested a roll call on the motion to accept the Majority "Ought to Pass" as amended Report.

The Clerk read the Committee Report in its entirety.

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

Representative MARTIN: Mr. Speaker, Members of the House. Something that has sparked my interest was a question posed by the Representative from Madawaska, Representative Ahearne, in terms of whether or not things can be deleted. I would just, and the exact wording escapes me I'm not sure by the way it is worded, but I would just remind you of a Supreme Court case which involves the state of Minnesota a few years ago. Where because of the wording in the Constitution of that State, when they passed the Constitutional amendment dealing with Line-item Veto and the ability of a Governor to delete, what the Governor of that state did was to delete letters of words which completely reversed the actual intent of the Legislature and completely changed the entire meaning.

The question that has to be addressed carefully is whether or not you delete just money items and that was not justified I got the interpretation by the Representative from Presque Isle, Representative Donnelly that you could delete items. It's one thing to delete monetary items, it's another thing if you're going to allow the Governor to deal with words. And by the way, I just want to point out that he reversed entirely the intent of the Legislature by deleting letters out of words to do just the exact reverse and then subsequently it went all the way to the Supreme Court of the United States and the Governor's action was upheld. Subsequent to that the Legislature has subsequently amended their Constitutional amendment dealing with Line-item Veto and have removed and changed it so that would never again happen in that state.

We have to be very careful that what we do is deal with monetary items only, by that I mean dollars and not with the language of the bill itself. So based on the response by the Representative from Presque Isle, Representative Donnelly, for the record, I want to make sure that the record clearly indicates what I believe is the intent of the bill and not anything to the contrary.

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

Representative DONNELLY: Thank you Mr. Speaker. Not to make the top ten list, but in my attempt to be brief and not speak again I was to brief and need to speak again. To fully answer the question of the Representative from Madawaska, Representative Ahearne and fully flush out the question and concerns by the Representative of Eagle Lake, Representative Martin. It is only dollar amounts in which the Governor can deal with. It can reduce or eliminate the dollar amount, not the language. The committee did share the concern without the benefit of the Minnesota court case. I'm glad to see that the foresight of Representative Kerr and the members of the Majority Report is also shared by the Supreme Court. Thank you.

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

Representative TOWNSEND: Thank you Mr. Speaker, Men and Women of the House: I'd just like to quickly to point out that I still have yet to hear a convincing argument that there is a pressing need for the Line-item Veto. When I knock on doors in East Deering I do not get lobbied by my constituents that we need a Line-item Veto in the state of Maine. They tell me they want property tax relief and they want me up here addressing the issues which affect them on a day to day basis. They don't speak to me about the Line-item Veto.

I also want to point out that while I, in fact, have warmed up to the idea of a Line-item Veto at the national level. Maine is very different from Congress. In Congress you can amend any bill with a non germane amendment and sneak a piece of pork that you can then take home to your district. You can't do that here in Maine. So the idea of sneaking something on to a piece of legislation is just not true, it just doesn't happen here.

The issue of surprise items, sneak items was raised during the committee hearings and my response to that is that we're in a small body, a small number of people are in the room and if you have an interest in the legislation, be in the room and if that means the Appropriations Committee meeting is at 3:00 a.m. then be in the room at 3 in the morning, all parties should be involved. I certainly hope the Governor's representatives are going to be sticking with us right through to the bitter end of any negotiations.

Those are my final reasons I won't speak again, I promise. Please join me in rejecting the Majority "Ought to Pass" Report.

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

Representative KERR: Mr. Speaker, Men and Women of the House: This is strictly a policy question. I am not going to try to convince you whether to support a Line-item Veto or not. I think we all know what it does. This bill, I think, is something of a major compromise to other bills that were put before this body in the past since I've been here.

What this bill does is Line-item Veto for any L.D. or the budget with any appropriations or allocations. The time that the Governor has to exercise his veto is one day. The question was asked does the Governor have to replace a veto with an item of lesser cost. The answer to that is yes. I think that the people of the state of Maine can make this decision. Let's give them that opportunity. I think it's a healthy start to make some major changes that are needed in this body. People, we hear continually

say that they want to cut state spending, they want property tax relief. We know we haven't been able to achieve that yet. Line-item Veto is strictly a policy issue and I'd urge your support of the pending motion. Thank you.

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

Representative WHITCOMB: Thank you Mr. Speaker. As the sponsor of one of the Line-item Veto bills that was not accepted by the Appropriations Committee, I wanted to join in the support of the final product of the Appropriations folks.

It seems to me that there are probably legislators who feel that the Governor should not have any veto power. The Executive currently has the opportunity to veto whole pieces of legislation and this body and another body by two-thirds vote decides that in spite of the Governor's wishes that the law will continue as originally proposed.

The piece of legislation that I submitted would contain that same process under line-item. The committee has chosen to go another route. I think the point that was made, if the Legislature is committed to certain items that deal with a budgetary matter, they ought to be willing to vote for it in isolation. I appreciate the comments from the Representative who's serving his first term on the Appropriations Committee who says that everything that enters in the budget is fully agreed upon by all members of the Appropriations process and approved by all members of the Legislature and the Chief Executive. I would suggest that at least in past budgets that is not always the case. I think that it would not do any of us any harm to see some of the items that appear in a budget or in a piece of legislation that has a financial fiscal note attached to it to come back to this body and to have to be supported by a majority vote in isolation.

I think the Representative from Old Orchard Beach has said it well when he said that this is strictly a policy question. It's a decision on the part of the members of this body as to whether we ask the people whether they think a Chief Executive ought to be able to look at a particular part of legislation and call into question the action of the Legislature and make the Legislature vote in the affirmative for that single item. Why should we hide from the task of voting in the affirmative for something that we have approved, perhaps having made a mistake upon or approved in a compromise package that isolated, doesn't look as rosy once it is put in front of us.

Line-item Veto is an appropriate question to ask the people. It doesn't diminish our power one iota. It makes us perhaps even more responsible as a Legislative body and I think that it's something that the people deserve an opportunity to vote upon. I urge your support. Thank you.

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

Representative MARTIN: Mr. Speaker, Members of the House: Again for the record. I'd ask you to turn to the L.D. roughly in the middle and I quote, "for any disapproved item or items the Governor shall replace the item with one that does not result in an increase in an appropriation or allocation or a decrease in a deappropriation or deallocation". Am I to assume that item means the money, that it does not mean for example replacing a program at BMHI or AMHI with a fish way on the Aroostook River?

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

Representative SIMONEAU: In answer to the question, the intent of the committee was to deal with money items strictly and not for the changing of words and substitution of programs.

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

Representative MARTIN: Thank you Mr. Speaker. I would repeat that the line itself from the Constitution and it is important to note what the meaning of the word item is going to mean. We have no definition of the word item in the Constitution. There is no definition of that word. That line and I will read it again, "for any disapproved item or items, the Governor shall replace the item with one that does not result in an increase in an appropriation or allocation or decrease in a deappropriation or deallocation". Does that mean the monetary item or does that mean a program item? Could the Governor, under this definition, take a bill remove the item and replace it with an item unrelated, for example, as I said a state institution for the mentally ill and instead put in a fish way on the Aroostook River, which happens to be a popular item of mine at the moment and therefore getting the money that the Legislature would not give him for a program that we wouldn't give him, but chose to do it this way. I hope your getting the question that I'm posing here and the key is what does the word item mean. If it means money, that's one thing. If it means program, we'd better amend it before we proceed to enactment and sending this to the voters.

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

Representative KERR: Mr. Speaker, Men and Women of the House. The answer to Representative Martin's question is that it only means money, an appropriation, an allocation or a deappropriation. It is only for that particular item that the Governor or that only issue that the Governor is vetoing. From our OPLA staff and from members of the Appropriations Committee it only means money. And I think that we can complicate this issue as long as you want, but it only means money.

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

Representative HARTNETT: Thank you very much Mr. Speaker, Men and Women of the House. May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative HARTNETT: This would be for any member of the committee who would like to answer. I am reading the same section that the good Representative from Eagle Lake has read. As I read this the Governor may take an item out and it says shall replace it. The item was one that does not result in an increase in the appropriation. The argument was made that this would be able to cut taxes and cut spending, but the simple fact is we'd be taking sort of one round peg out and sticking another round peg in.

My question is, while I understand he may put an item in of less expenditure or less deallocation that it's not necessarily composed upon the executive to



do such. If I haven't make myself clear, I'll certainly rephrase the question.

The SPEAKER: The Representative from Freeport, Representative Hartnett has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: If I read the question correctly or what you've asked is does the Governor has to replace a vetoed item with an item of lesser cost. The answer to that question is yes.

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

Representative DONNELLY: Thank you Mr. Speaker, Men and Women of the House: To further clarify the workings of a budget the state of Maine must have a balanced budget. That means you do not have money floating around that is not expended or dealt with in some fashion and you do not run into the red. In order for the Governor to replace it he must place it somewhere. He can not simply Line-item Veto out a \$100,000 dollar item and say there it's done. It must go somewhere. If it goes into unallocated surplus that's someplace. If it goes into the Rainy Day, it has to go somewhere. It can't just float around in the black abyss of financial affairs. So that's what this language means. The context of the budget all money must be dealt with and it must be balanced.

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

Representative HARTNETT: Thank you Mr. Speaker, Men and Women of the House: I also thank the members of Appropriations for that answer. So as I see it then, because we must have a balanced budget, there will no cost saving involved in one of these vetoes. The money may not go to specific expenditures, but it will go somewhere. Now I came in here today thinking what a great idea, and I know this is part of our party agenda, but there is no cost savings involved here. This just takes one kind of pork out and puts another kind of pork in. And I'll tell you if we're going to put pork in the budget, I'd rather it be ours than the Executives.

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

Representative CLOUTIER: Thank you Mr. Speaker, Ladies and Gentlemen of the House: My good friend from Freeport, Representative Hartnett is exactly right. You can put anything into this bill and you can pull anything out anytime you want and that's the whole issue. Let's say we were to present an issue that was absolutely critical to your district, but it wasn't critical to the Governor, whether it be this Governor, the next Governor or a Governor 20 years down the road, he could actually pull out the sustenance, the money, out of that district, your district, and put it in and replace with something for somebody else.

Now what we're talking about is the ability for the Governor to eliminate the process of him dealing with the Appropriations Committee. Why have an Appropriations Committee if you're going to establish Line-item Veto such as this? It is a question, I ask you to think long and hard about it. Thank you.

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

Representative KERR: Mr. Speaker, Men and Women of the House: The question asked I believe was, again I think we are deviating from what this piece of legislation does. Is the Governor prohibited from increasing other appropriation or allocations within the budget document or an L.D.? The answer to that question is yes. He can not do what people has insinuated that he take money and put it somewhere else or move it around. That cannot be done. Is the Governor prohibited from vetoing nonappropriations and allocations dealing with statutory language? Is he prohibited from doing that? Yes he is. So we're not building or increasing the budget or shifting those items around, that's prohibited in this bill. Thank you.

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: I know that this is a touchy issue, but this is giving an awful lot of power to one individual. You know we are a part-time Legislature. We are sent here to do the people's work. Actually, before a budget has gone down to the Governor's desk, usually all the ironing out is done here with you, the people's workers. I think it's giving an awful lot of power to one individual and I think one of the Representatives here said it well and eloquently on the floor of the House. If I should have a problem in this budget and I didn't like it and the Governor had a Line-item Veto, don't you think I couldn't go downstairs behind your back and just tell him, "Hey look Governor could you do me a favor and pull this particular thing out, because I don't think that Bangor, Portland, Machias or one of these areas should have this particular thing and maybe you could just give me a little reward and feed Lewiston a little more?" I think the system has been served well in the past years, I don't think there's anything wrong and I don't think we have to fix it right now. So I would hope that you would oppose the Line-item Veto.

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

Representative JOSEPH: Thank you Mr. Speaker, Women and Men of the House: I was on the Minority Report of this piece of legislation and I feel very strongly about this. Any and all Chief Executives would want a Line-item Veto and we have heard this across the country. However, Maine has continued to be unique and does not have a Line-item Veto. This may sound like a good idea but in my opinion it is a bad idea. I believe that by having a Line-item Veto the Legislative branch relinquishes our responsibility and our ability to in fact, conduct legislative process as we know it. We forego our opportunity and actually our privilege and the power that we currently have. And because government is made up of three equal branches it is my strong opinion that this makes the three branches unequal.

I believe that it renders the legislative process impotent and it neutralizes the legislative process and the ability for the Legislators to act and legislative action. In my opinion, it discourages debate, negotiation and compromise, which must occur now as a budget is developed through the process that we now have with the input of the Executive branch and with the input of the Legislative branch. If in



fact a Chief Executive has that Line-item Veto, I would question whether they would come to this table in sincerity and genuine interest knowing that down the road after the actions have been taken, they could in fact veto any item in that particular budget. I would ask again, why wouldn't any Chief Executive want a Line-item Veto? And we must remember, if we're encouraging the amendment of the Constitution of the State of Maine that amendment will be for all times. So I ask you to vote against the Majority "Ought to Pass" Report so we can accept the Minority "Ought Not to Pass" Report.

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

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: With the questions that are being asked here I'm afraid that we're getting more confused than getting enlightened. So I think we should get additional information for you. Therefore, I'll make a motion to table this until later in today's session.

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

On motion of Representative MARTIN of Eagle Lake, tabled pending the motion to accept the Majority "Ought to Pass" as amended Report and later today assigned. (Roll Call Ordered)

On motion of Representative JACQUES of Waterville, the House recessed until 6:30 p.m.

(After Recess)

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

House Divided Report - Committee on Judiciary - (9) Members "Ought Not to Pass" - (4) Members "Ought to Pass" as amended by Committee Amendment "A" (H-210) on Bill "An Act Concerning Grandparents' Rights of Visitation and Custody" (H.P. 364) (L.D. 484) which was tabled by Representative TREAT of Gardiner pending her motion to accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Thank you Mr. Speaker, Men and Women of the House: I hope that you will support the Majority "Ought Not to Pass" Report on this bill. The issue of grandparents' rights or visitation for their grandchildren is one which has been hotly debated and really gotten into for the first time in this state in the last session of the Legislature. We adopted at that time, a law which provided for automatic intervener status for a grandparent to become involved in a custody case. They also considered, and that bill came up to our committee with a sunset on it which we removed. There was a lot of interest and we felt it was a law that was working very well and it was something that made sense. It's something that went under the hammer in this body probably a week or so ago, perhaps more. What this bill does is something quite different and the majority of the committee felt that it was a mistake.

The proposal here is to grant to grandparents the opportunity to visit with their grandchildren after

(--SOUTH--)rights have been terminated, this is after their children as parents rights have been taken away from the parent and placed into foster homes pending adoptions, essentially. What this bill would do is say that grandparents, during that time, when their own children have not been allowed to be seeing these children, because generally of abusive situations in the home, that those grandparents can visit during that period of time and then when they're put up for adoption then they don't have that right anymore.

This is not something that is done anywhere else in the United States, it was opposed by the family law section of the Bar Association, which we don't always agree with everything they say, but they are people who represent parents and grandparents on all sides of these issues and they were very strongly opposed to it feeling that it could harm the children and that the motives of the grandparents were not always clear. Particularly when you have situations where they're close to the parents whose rights have been terminated.

I'd like to stress that there are other opportunities for grandparents in these exact situations. They are, in fact, preferred placements for these children. That's where DHS is going to be looking first. If parental rights are terminated they're going to look to relatives, and, in fact, it's been written into the statute that they should look to the relatives, including grandparents. In addition these grandparents can petition to become foster parents in this case and this would only arise when they had decided that they didn't want to be foster parents and yet they would be given these visitation rights.

It's a very difficult area and I think there's very legitimate examples of where this would have made some sense and I know you will here about those examples from the proponents of this bill. It was the judgment of the majority of the committee that more harm would be done from this than good. That we had taken this step towards giving much greater rights to grandparents then we had ever done before and that we should let that process work for the time being and see how it goes before expanding in to area.

I would encourage you to vote with the majority here for "Ought Not to Pass".

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

Representative POULIN: Mr. Speaker, Ladies and Gentlemen of the House: As sponsor of this legislation I'd like to say a few words in support of the Minority Report.

Under current law when parental rights are terminated grandparents by law are no longer grandparents. This is the part that really troubles me about this. Even if a judge believes that an existing relationship should continue between the grandparents and the child, by law he can't allow what he believes is in the best interest of the child.

As Representative Treat said, when parental rights are terminated, DHS has custody of the child and the goal is to get the child in an adoption situation. The problem that arises is that many, many children in this state are either left in a state institution or bounced between foster homes for years and are prevented, in some cases, prevented from visitation with grandparents.

The Minority Report allows a judge to do what it is in the best interest of the child. Thank you.

The SPEAKER: The Chair recognizes the Representative from Township 27, Representative Bailey.

Representative BAILEY: Thank you Mr. Speaker, Ladies and Gentlemen of the House: Two years ago the grandparent's bill to allow them intervening status, that was my bill. That did pass in the Legislature and is now current law.

What brought that bill to existence was the fact that grandparents in my district who were foster parents and eligible to take in your children or my children their son and his wife ended up in a divorce they weren't allowed to take their own grandson into their home as foster parents. Ultimately, Human Services took their grandson and allowed the foster parents in the Portland area to adopt that grandson. I just feel that Human Services, for the past few years, has been over stepping their boundaries in these situations and the fact is that less than 2% of the grandparents end up with custody of their grandchildren. I urge you to defeat the Majority "Ought Not to Pass" so we can pass the Minority Report. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative CAMERON: Thank you very much. To anyone who cares to answer, anyone on the committee. The first speaker indicated that the committee had determined that this would cause great harm to the children and I guess I don't understand. I'd like to hear somebody explain to me what great harm this would cause. That's all the comment was.

The SPEAKER: The Representative from Rumford, Representative Cameron has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Thank you Mr. Speaker. In response to the question. The concern was the child who is going up for adoption is not going to be adopted by the grandparent. They're trying to place that child with another family for a permanent placement. At the same time, you have the grandparents who have been given this sort of temporary visitation rights during this interim. The grandparents may still be very connected to the parents who had abused the child in the first place and this is not cast dispersions on grandparents in general, but the testimony was given to us that many of the grandparents had abused the children, their children, then were abusing the children that we're now talking about. I mean it's a family thing that's been going on for awhile.

The overall situation seemed really just to not necessarily be in the best interest of the child. It's a temporary thing, getting the grandparents in when the children are being placed and you're trying to basically plan for their future, get them ready to leave this horrible family situation that they've been in. The rights have been terminated, that's a very serious thing for parental rights to be terminated. It's only done when there is really significant abuse and there's absolutely no opportunity that that family will be a cohesive unit again. This just didn't seem to be good policy.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representatives PLOWMAN: Thank you Mr. Speaker, Men and Women of the House: Two years ago I was also active in helping pass rights for grandparents. My bill was not the same as the Representative from Township 27. Mine was to give the grandparents the right to ask for visitation when they had lost access to grandchildren that they had had a relationship with. This year we did repeal the sunset on that because it did not provoke the flurry of filings that was feared and with the Unanimous Committee Report we repealed it.

I do remember talking about grandparents as foster parents and I do remember that hearing less than 2,400 children currently in foster care, less than five percent of those children are placed with family members. You heard about two percent of the children are placed with grandparents. Grandparents have been given pro-intervener status or priority status.

Sometimes children aren't placed with their grandparents because their grandparents don't need to be licensed or the family doesn't need to be licensed as a foster care home to take care of the children. This doesn't happen very often because if you don't get licensed by the state, the state can not apply for federal matching funds to care for that child. In the mean time the parents who have had their rights terminated from the children, under the present act that we have now on the books, a grandparent can apply for visitation rights and be awarded visitation rights to a child who is in the custody of DHS up until parental rights are terminated. They may visit with that child through the whole termination process of 18 months or 24 months which you will hear as the normal time for terminating parental rights.

Those children languish in foster homes for years sometimes. Sometimes until they reach maturity. Grandparents who just want the right to ask if they can visit with their grandchildren while their grandchildren are still in foster care. We have a provision that when the children are adopted the visitation ends. That's something that needs to be worked out between the adoptive parent and the grandparent as to whether they still want this involvement by these people. It's an artificial limitation, they can visit right up until the judge takes away the parental rights. They've already been deemed fit to visit with these children right up until then. Nothing changes in that part, the grandparents love doesn't go away, the child's need for a grandparent doesn't go away and the judges order that was based on the best needs of the child is suddenly null and void.

Let's give them the chance to be able to ask. I ask you to go against the Majority "Ought Not to Pass" and vote with the Minority "Ought to Pass". Thank you

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

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

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

Representative RICHARDSON: Thank you Mr. Speaker, Men and Women of the House: The reason I joined the Minority "Ought to Pass" recommendation on this bill is because of the additional discretion that will be given to judges to allow intervenor status to grandparents. There is a period of time before adoption in which the child will be with foster or potentially foster families and that could be an extended period. The judge under this bill could have discretion through the intervenor status and the claim made by the grandparent to include them in on involvement with the children if that's in the interest of the children. The standard remains focused on the children. The clear barrier is crossed over when the children, if they are placed with the adoptive parents and at that point, of course, the adoptive parents have essentially the sole jurisdiction in the area over who can or cannot be visiting in effect with their children.

I believe that that discretion is appropriate to the judicial authority. I believe that the intervenor status can in some cases be appropriately given to the grandparents and because of that, even though in cases that may extend the discussion a bit longer in the court, it's an appropriate position for us to take and it contributes to the judge finding out what in fact may be in the best interest of the child. So I also urge you to join with the Minority Report and pass out the amended version of the bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Standish, Representative Greenlaw.

Representatives GREENLAW: Thank you Mr. Speaker. Mr. Speaker may I pose a question through the Chair?

The SPEAKER PRO TEM: The gentleman may pose his question.

Representative GREENLAW: My question Mr. Speaker, do we have a grandmother in the House that would be an authority on this?

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

Representative LUTHER: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I'm a brand new grandmother so I'm not an authority on this, but I have dealt with this problem. Three different cases of people from my area and it seemed to me in each case the grandparents who were not allowed to see the children were the only people who really cared about the children. It didn't make much sense to me. I would think a judge would have sense enough to know that if the grandparents had abused their children they would not let the grandparents be the ones to see them, but that is certainly up to the discretion of the judge. This seems like a good idea to me and I'm going to vote against the Majority Report. Thank you Mr. Speaker.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: My feeling is there is no way in the world that a law is going to take away my right as a grandparent. I am a grandparent, I will probably be the best second thing that these kids could, have the parents, their first choice, and I would be the second choice. I think by giving this, if this is a situation where we are giving away our

rights as grandparents, I would question this very very much.

I personally feel that I would be, and believe me I don't want to be raising kids at my age, but if something happened to my daughter or my son, I would want to raise my grandchildren. I tell you I am going to oppose the motion on the floor and I ask you to please do so. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Scarborough, Representative Lovett.

Representative LOVETT: Thank you Mr. Speaker. I'm a grandmother, I have eight grandchildren and I'm fortunate to have two grandchildren who live with me. If we had a circumstance in our family where something happened to my daughter, believe me, I would be the one that would be the best qualified to take care of those two children. I would fight tooth and nail for those two kids. I'm sorry I guess I've missed the point, I think families should be brought together, they should stay together and I'm very upset about this bill. I can't even imagine it getting this far. I hope you'll defeat it. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Freeport, Representative Hartnett.

Representative HARTNETT: Thank you Mr. Speaker, Men and Women of the House: A few days ago we had a number of divided reports from Committee on Labor and that was called labor day. I wrote down I think today is judgment day. I say that not so much as to make a joke, but to bring emphasis to what this issue is about. This is one of those issues that if you asked for a reading of the divided report it's not going to tell you an awful lot. It's not split along party lines or any other way that you might think. It was a number of people gathered in a room over several days weighing a very difficult issue and making a judgment, making the best one we thought we could make.

Issues of child custody are very important to me, as members of the committee know. I would not have lightly gone on the Majority side here if I didn't think that we were dealing with situations that, in many cases, were beyond anything you could imagine. We've heard a number of good Representatives who are grandparents talk about themselves as being the next best thing and I have no doubt that they are. Maybe should situations arise in their families, perhaps a death of their child, perhaps another life interrupting experience, they would be the next best thing and they often in the courts get custody of these children while their own children maybe attempt to get their own lives together.

That's the wonderful world that we want. As I've learned through these hearings and others in Judiciary there's another world that probably I never knew about. Simply put, there are some very bad people out there and they're capable of reproducing and having children and those children are placed in harms way by the very existence of their parents. Keep in mind that this Majority "Ought Not to Pass" Report is saying this, it's saying that those children in these very extreme cases, and think about how extreme it has to be, parental rights have either been terminated or that parent has chosen to place the child up for adoption. You know what we're talking about, this is a real small percentage, it isn't the anecdotes we can hear on this floor. And what this bill says, by what you would say by

accepting the Majority "Ought Not to Pass" , sadly you'd be saying this, in these few cases we must terminate grandparents rights as well. As a woman who testified before us said best, is at some point with these children whose lives have been so afflicted they need to move on. They need to go on to new parents and new care and as best they can establish a new life. These kids have been thrown every curve ball you can imagine, some at very early ages.

I just ask you to think about that, that's a very small number of cases but if we open this up those children in harms way may well continue to be there. I urge you to accept the Majority "Ought Not to Pass".

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

Representative POULIN: Thank you Mr. Speaker, Ladies and Gentlemen of the House: The reason I brought this bill forward was that there is a grandparent in my district who was in front of a judge, in a case where parental rights were terminated and she was told that I'm sorry I don't have the legal right, even if I believe that you should have visitation with child, which he did, I cannot allow a visitation. This bill would allow him some discretion in this situation.

A few days ago I met a couple of ladies that were with the group down in the Hall of Flags, they were both early intervention people, one was a social worker another worked placing kids. I described the bill to them, they thought that it, particularly in light of broken families this day and age, they thought that this bill should go forward, they agreed, they work with kids like this. Please give judges a chance to do what is the best interest of the child. Thank you.

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

Representative CAMERON: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I think the good Representative Poulin just made an excellent point and I want to emphasize it before I say what else I was going to say. This bill merely gives the judge the option and I think it's really important the judge has that option.

Some comments were made earlier about deliberations that were made in the committee about abusive parents, probably came from abusive parents, I'm paraphrasing that's not exactly what was said but that was the message that I got, and that these children would most likely be better off in the care of the state, in other words, in foster homes. I'm no expert in this field, by any means, but my wife and I did adopt two children, that were seven and nine years old that came out of a foster home, came from DHS. I'm here to tell you that home was not a wonderful place and I think its a gross injustice to assume the grandparents of an abusive parent are necessarily abusive themselves. I know that some cases that happens, but it's a gross injustice to assume that if one parent is, the grandparents must also be. I think it's also a gross injustice that every foster home in the state of Maine is a better place for our children than placed with their grandparents. I know we discussed other bills here in the past few days about issues that judges need the right to make the decision and that's all I see this bill being is somebody having the right to make the decision and that's all I see this bill being is

somebody having the right to let the grandparents have custody of their grandchildren.

Now it would seem to me that a child that's been through the traumatic experience that we're talking about, and I think everybody in this hall recognizes that some children suffer some terrible, terrible abuse and the laws in the state of Maine that I experienced, my wife and I went through that, I think protected the parents way longer than they should have been protected, but be that as it may, knowing full well that these children are coming out of an abusive situation. The fact of the matter is, given the choice, those children will go back into that abusive situation rather than go to another home. The reason for that is it's what they know, the devil that I know is better than the devil I don't know. I didn't understand that, quite frankly, when I first got my children, but after many years and finally after years of counseling and so forth found out what had happened to them and I did understand it.

The reason I say this is that these children coming out of this situation the courts have gotten to the point where they've taken them away from their parents and that is the last resort. I cannot help but believe that grandparent being the one single piece of stability in that child's life doesn't represent a better situation a better environment for that child to go in than to go into a home of complete strangers. I'm here to tell you, the day that the social worker brought the two children to my home those children wanted nothing to do with us. We represented the people that took them away from their parents, they hated us. So to say that going into a foster home is a better situation than going into a grandparents home is not always true. Now I will admit sometimes it is a better situation, but I think the judge needs the latitude to provide that opportunity to provide that one little piece of stability in those children's lives, because it's the only piece of stability that they may have when they've been taken from their home and shipped into a foster home.

You and I know that sometimes a foster home is a safe place for them. They don't know that, they don't understand that no matter how many times you tell them, they don't understand that. All they know is you took me away from my Mom and my grandparents, my Granddad and my Grandmom.

Again, I won't belabor the issue but I cannot help but believe that one piece of stability, that one person that they've known all of their life doesn't provide some continuity. It's extremely important that they'll lose if they go into foster care. Thank you.

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

Representative HICHBORN: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I'm sure that there are many of us here who have very poignant memories of grandparents. One that I treasure most is of a grandmother who died 75 years ago and I still remember many of the lessons that she taught me then. I think that no child ever has to many grandparents. This is a discretionary measure which will allow the judge to use his own judgment and to make a decision and I think that to deprive any child of a grandparent would be a grave injustice.

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

Representative LEMKE: Thank you Mr. Speaker, Men and Women of the House: I consider grandparents to be one of the great unused resources in our society and I therefore urge you to vote against the pending motion which is "Ought Not to Pass" so that we then can go on to vote so that we can use this great resource which we have.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Thank you Mr. Speaker, Men and Women of the House: At the great risk of testing the patience of the Speaker and of my colleagues, I just want to say one short thing. This changes a no, a definite no, to a maybe and if that one very, very special grandmother or grandfather is awarded visitation in the next five years it's because you passed this bill, because they won't get it if we don't. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Biddeford, Representative LaFountain.

Representative LAFOUNTAIN: Thank you Mr. Speaker, Men and Women of the House: I urge you to support the Majority "Ought Not to Pass" Report. Through most of this debate we've been talking about one aspect of the bill and that's termination of parental rights. If you read the bill in its entirety, you will see that it applies to separations, divorce, surrenders and releases and termination of parental rights and child protective proceedings. If you think about a divorce proceeding you think of two parties being involved, wife and husband. Two lawyers involved, plaintiff's attorney and defendant's attorney. On rare occasions you have a guardian ad litem appointed to represent the child. The potential for this bill is you could have seven attorneys involved in a divorce proceeding involving child custody.

Assuming that both sets of grandparents are divorced, maternal grandmother could have her attorney, paternal grandfather could have his attorney, likewise on the other side. The child could have their attorney, there would be seven.

The good Representative from Rumford gave you his family history with adoption. There's one nightmare scenario that can result in an adoption such as his situation and I don't want to comment on his personal life, but since he raised the issue, I must. In the event that a divorce occurred in his family, if you read the definition, as modified by this bill, there is a potential that the grandparents who are the biological grandparents of that child could intervene in his divorce action and could be awarded parental rights and responsibilities for his child. Those grandparents could be awarded the rights over himself and over his spouse. Is that truly what this body wants to do?

The SPEAKER PRO TEM: The Chair recognizes the Representative from Old Town, Representative Keane.

Representative KEANE: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair.

The SPEAKER PRO TEM: The Representative may pose his question.

Representative KEANE: Can anybody tell what would happen to the grandparents if their son or daughter or corresponding in-law were killed and left two or three children?

The SPEAKER PRO TEM: The Representative from Old Town, Representative Keane has posed a question

through the chair to anyone who may care to respond. The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Thank Mr. Speaker. I'm not sure if you are talking about a termination situation or not, if the parents were killed and there was a will that said who was to take guardianship over those children than that would control and it would go through that process.

The situation here is when parental rights have been terminated by a court and the children have been taken away from parents who are alive because those parents were very poor parents and I don't know how that relates to this situation. I'd just like to clarify a couple things while I'm up here because a number of statements have been made both by proponents and opponents about things this bill does or doesn't do which are really beyond the scope of the amendment and I'd just like to clarify what the amendment does and does not do.

The bill as originally written was much more expansive than the amendment so I want to make it clear that the amendment does not say anything about who can adopt children, it doesn't say anything about grandparents being foster parents, it doesn't say anything about intervening in cases anymore, that's been taken care of by another bill that we are dealing with. It only deals with visitation rights and its visitation rights after these grandparents have already said they don't want to be, they don't want to adopt these children, they are not interested in being the foster parents, but they want the visitation rights.

So, we've talking about a lot of things that don't relate to this bill and I just want to make it clear it doesn't cover all of those other things, this is what it covers and I would just say I know it sounds reasonable to many people, because the grandparents in our life our wonderful and were wonderful parents too, but what we heard from people who work with the families that are involved in these cases was otherwise. Their belief was, and it was convincing to the majority of this committee that this period of visitation which has to be ended as they are adopted by someone else, the grandparent would be destructive to those children. I urge you to vote for the "Ought Not to Pass" Report. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hampden, Representative Plowman. Having spoken twice now requests the unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative PLOWMAN: Thank you Mr. Speaker, Men and Women of the House: I'd like to thank the Chair of the Judiciary Committee for clearing that up. The bill, should you defeat this motion, we will not be discussing the bill, we will be discussing the Minority Report which is a Minority "Ought to Pass" as amended Report. A much tighter version.

Point number two, it does not discuss as was mentioned, the original bill did include all of those this does not. I hope that you will go on to defeat this motion so that we can take up the motion to pass the amendment. Thank you.

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

Representative THOMPSON: Thank you Mr. Speaker. I'm voting no on this amendment and the reason is I personally know the case where parental rights have

been terminated on a child who had good grandparents who were unable to take the child in, but it was very important that they maintain contact and some of these kids stay in foster care for many many years and don't go to adoption instantly. I think this gives the courts and option to maintain a relationship if it's a good relationship.

The Chair ordered a division on the motion to accept the Majority **"Ought Not to Pass"** Report.

A vote of the House was taken. 24 voted in favor of the same and 106 against, the Majority **"Ought Not to Pass"** Report was not accepted.

Subsequently, the Minority **"Ought to Pass"** as amended Report was accepted. The Bill was read once. Committee Amendment "A" (H-210) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, May 11, 1995.

House Divided Report - Committee on Human Resources - (7) Members **"Ought to Pass"** as amended by Committee Amendment "A" (H-198) - (6) Members **"Ought Not to Pass"** on Bill "An Act to Limit Copayments for Participants in Medicaid Managed Care Demonstration Projects" (H.P. 233) (L.D. 313) which was tabled by Representative FITZPATRICK of Durham pending his motion to accept the Majority **"Ought to Pass"** as amended Report.

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

Representative FITZPATRICK: Thank Mr. Speaker. Mr. Speaker, Men and Women of the House: I rise to ask you to support the "Ought to Pass" Report as amended by Committee Amendment "A".

This is a relatively simple bill that got complex in the work session. The amendment you see before you was an amendment that the Department of Human Services asked us to put on the bill to limit the effect of the bill on the 1915 Medicaid waiver, so in other words it limits it from its original intent and it was an amendment that we put on per request of the Department of Human Services. It makes technical changes that really aligns DHS's 1915 Medicaid B Waiver with current federal law. Without this change the 1915 B Waiver would not be in compliance with federal law.

You may hear during the debate that probably will follow that this bill somehow ties the hands of the Department of Human Services and their waiver application. You may hear that somehow Medicaid copayments are at the issue of L.D. 313. This is simply not the case. This is again a very simple bill that for some reason got very complex in work session. If better positions ourselves for the upcoming federal Medicaid waiver which will allow us to more effectively serve the Medicaid population and finally gain some control over the cost of the Medicaid program. Again, I ask for your support for the "Ought to Pass" as amended by Committee Amendment "A". Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Scarborough, Representative Lovett.

Representative LOVETT: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I rise today in opposition to the pending motion, An Act to Limit Copayments for Participants in Medicaid Managed Care Demonstration Projects. We would be sending the wrong message to people who will be entering this

program and to those who are unable to participate in any type of health care program.

Ladies and Gentlemen, we must look at what this bill would really do. This bill would discourage individual responsibility by elimination the copayment of managed care. We tear away at the very fabric of individual responsibility. We as elected Representatives should not be creating a system of dependence, but encouraging a system that makes patients proud of contributing to their health care and the cost. They can see this as an opportunity to break free of the stigma and stereotype of being dependent. Government can not be all things to all people, but people can take back some of their dignity by participating in the cost of their own health insurance.

We all need to share in the cost of health care and by eliminating the copayment for Medicare coverage we will not be encouraging this independence. Politics has been often described as diagnosing a problem incorrectly and then applying the wrong solution. This bill is applying a wrong solution to a problem that does not exist. I am voting no on this bill and I urge your support in opposing the "Ought to Pass" motion. Thank you.

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 first want to say that I am not opposed to copayment they are an important piece in ensuring shared responsibility for health care management. However, in this particular case that we're discussing right now, I believe they're both unnecessary and duplicator. The 1915 B Waiver is a very limited demonstration project targeted for a small population, in this case, the AFDC recipients. The 1915 B Waiver sets up a limited managed care demonstration project. Managed care, by definition, manages health care delivery in a hopefully responsible way through case management. It is intended to reduce cost through case management and planning rather than copayment.

This bill is a small and technical bill and it is not about the value of copayments. It is about the 1915 B Demonstration Waiver for managed care and doing it the way the federal government has asked us to do so. This simply brings us into compliance. Thank you.

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

Representative WINGLASS: Thank you Mr. Speaker, Men and Women of the House: I believe it is important that we not deny the Maine men and women the dignity which derives when you pay your own way. The vast majority of Americans don't want a hand out they want to be a contributing member of society. If you doubt this I urge you to reread closely the material in the current media welfare series. The well intended bill L.D. 313 will inadvertently damage those fragile people who have so very little. We should not remove from them one of our States greatest characteristics, that being pride. A no vote on the question allows our fellow citizens participating in the Medicaid Demonstration Project to make small copayments for the crucial health services they received. Please don't further damage the Maine spirit which our poor now share with all the rest of us. They really have, up to this point, suffered far enough indignity. I urge a no vote on this motion.

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

Representative FITZPATRICK: Thank you Mr. Speaker and I promise to be brief. I just want to reiterate what I said before and respond to my friends from the Human Resources Committee who have been speaking to this.

This is not a bill about copays, this is a bill that makes a technical change in state law to bring us in compliance with federal law that has an amendment that was offered to us by DHS. Some day in the future I hope we can debate copays on the floor. I think we've started the debate tonight and I assume we will in the future. But again, this is a technical change in the law to bring us in compliance with federal law and the amendment before you is one that DHS asked us to put in. I personally am not necessarily not in favor of copays, I mean I think they have their place, but in terms of what we're talking about tonight on L.D. 313 is simply not the issue. Thanks.

The Chair ordered a Division on the motion to accept the Majority "Ought to Pass" as amended Report.

Representative MITCHELL of Portland requested a roll call on the motion to accept the Majority "Ought to Pass" as amended Report.

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

Representative FITZPATRICK: Thank you Mr. Speaker. Again, I simply want to reiterate on this. This is a small technical change that brings us in compliance with federal law and I ask you to support the "Ought to Pass" Report. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is acceptance of the Majority "Ought to Pass" as amended Report. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 83

YEA - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, 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.; Keane, Kerr, Kilkelly, Kontos, Lafountain, Lemaire, Lemke, Luther, Martin, Meres, Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Poulin, Pouliot, Povich, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, The Speaker.

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

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

ABSENT - Dexter, Joseph, Mayo, McAlevey, Mitchell EH; Ott, Rotondi, Truman, Yackobitz.

Yes, 72; No, 70; Absent, 9; Excused, 0.

72 having voted in the affirmative and 70 voted in the negative with 9 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-198) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, May 11, 1995.

#### UNFINISHED BUSINESS

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

SENATE DIVIDED REPORT - Report "A" (8) "Ought to Pass" as amended by Committee Amendment "A" (S-91) - Report "B" (2) "Ought to Pass" as amended by Committee Amendment "B" (S-92) - Report "C" (3) "Ought Not to Pass" - Committee on Transportation on Bill "An Act to Require All Persons to Use Safety Belts in Motor Vehicles" (S.P. 77) (L.D. 165)

- 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-91).

TABLED - May 4, 1995 (Till Later Today) by Representative O'GARA of Westbrook.

PENDING - Motion of same Representative to accept Report "A" "Ought to Pass" as amended by Committee Amendment "A" (S-91).

The SPEAKER PRO TEM: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Thank you Mr. Speaker, Ladies and Gentlemen of the House: Very, very brief, first of all I want to point out that if Report A is passed, I will present an amendment which will change the enforcement from primary to secondary. I know that was an issue with a lot of you. The amendment was placed on your desks this morning. Secondly, just on the side, about an incident that happened the other day during the debate. Shortly after I finished my opening remarks, one of the young pages, you might recall, he had several cub scouts that were here came over and were standing beside my desk, I thought he was either delivering a message or was hoping to pick one up. Instead, he wanted me to know that he agreed with what I said about the need for seat belts because his father had been in a serious accident and everyone had told him that if he hadn't been wearing his seat belt his father would have died. Needless to say I was very moved by his youthful sincerity.

Third comment, just one more, a comment about Maine citizens, I know that there are those who say they don't want to be told to wear seat belts but I also know that Maine citizens are law abiding citizens and that instead of being last in terms of usage among the several states, I believe we will move very quickly toward the national average of 61 percent and beyond if this bill passes. The formula is very simple Ladies and Gentlemen of the House,



more usage means less injuries and death. Fewer injuries, especially long term ones, means less health care cost and a diminish cost to families and taxpayers in general.

You have seen the date, the costs are awesome. Your constituents, those who say they don't want this bill don't understand the cost that they share because so many people exercise that famed Maine independence and refuse to wear seat belts. They don't have access to the information, but you do. Those same constituents sent you here to use your judgment to make a decision based on the evidence, the facts and not emotion. I ask you to support the Majority Report which will be immediately amended as I promised a few minutes ago. Thank you.

Representative STROUT of Corinth moved that the Bill and all accompanying papers be indefinitely postponed.

The same Representative requested a roll call on his motion to indefinitely postpone the Bill and all accompanying papers.

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

Representative STROUT: Thank Mr. Speaker, Men and Women of the House. You've heard the good chairman of the committee tell you why you should support this and I am going to tell the other side of the story.

Over the weekend, I mention this because what's being distributed right now from Representative Perkins is a sheet that shows you where Maine stands in regards to other states in this nation on average expenditure. It's amazing to me that Maine is one of two states who doesn't require mandatory seat belts, but it seems that we are one of the states that has the lowest cost of insurance and that amazes me I guess, but some people might say to you that that's not accurate. Let me give you an example, over the weekend my daughter was home, she's been in New York for four years and she just moved back to the state of Maine in February, she was telling me about mandatory seat belts and how I stood on it even though she uses them she may disagree with me. We discussed a little bit about the cost of insurance up in New York where they have mandatory seat belts. The same two vehicles that she insured in New York cost her \$1,100 dollars. When she got to Maine, surprising to her she went and insured the same two vehicles and it cost her \$750 dollars. So I said to her I said isn't it nice that you moved back to Maine and she said well I wanted to get back in Maine but it's also helpful that we saved \$350 dollars on an insurance bill. I guess I would ask tonight those people who support mandatory seat belts why this is true.

Last week when we discussed about the number of states outside of Maine and New Hampshire that do have mandatory seat belts there's a difference, some states only require the front driver and passenger to have mandatory seat belts. This bill requires all adults to wear seat belts.

You know, I mention again tonight that when the chairman got up and said that if his report passes that later on he would be bringing an amendment, I would go so far as to ask the chairman if he feels that way, I wonder what his remarks would be if we were to support his Report A if he would offer an amendment to send this out to referendum and settle it once and for all. I thought about this last week, because we had three votes on it and all three failed. I'm going to make a pledge tonight that I

have always opposed mandatory use of seat belts, but I would compromise and I would say it on the floor tonight and I would ask the good chairman of the committee if he would make a statement like I'm going to make a statement. I would support sending this bill to referendum, I would support that.

Just last week I had meeting with the sponsor of this L.D., a member of the other body, I asked that person and she related to me under no circumstances would she support sending this to referendum. So having heard that that's why I made the motion tonight to Indefinitely Postpone this Bill and all its papers.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Thank you Mr. Speaker. Ladies and Gentlemen I want you to know and I tell you this sincerely and you can ask any number of people, I pledged that I would not allow this to get back into, at least I would not contribute to this getting back into a long debate, but obviously some things have been thrown at you that I can't respond to this sheet that you've just had tossed at you Ladies and Gentlemen.

I don't have those numbers, but I can tell you that in one of the statements that I decided not to read the other day because I tried to read so much to you. There have been 1676 deaths in Maine from car accidents in the last 10 years, in the last 10 years and the cost to the state's economy has been more than \$1.1 billion dollars in health care costs and the tremendous job that is done on families and loss of worker hours, etc.. I'm just not going to get back into all those figures. As far as the referendum, yes I'll make a statement right now, I don't intend, at this point in time, to decide or make a decision on a referendum and the Representative from Corinth knows that we've talked about it many times. The issue right now is not you turning around and sending a decision out to the public. I have never been a great supporter of sending items out through referendum, whether it's at the local level, in my 10 years as the Mayor of the City of Westbrook I objected time and time again to continually sending items out to referendum, they were elected to do a job. You and I are elected to do a job and I'm prepared to vote tonight on this bill "Ought to Pass" as amended and including the amendment which I will add immediately after the vote is accepted. Thank you.

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

Representative JOHNSON: Mr. Speaker and Men and Women of the House: I am a New York native, born in Brooklyn, New York, raised in Brooklyn, New York, attended school in New York City and if you have driven a car in New York State and in New York City you know right well why there is this difference in insurance expenditures. Just look at the fenders of a New York car and then look at a Maine car. Thank you.

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

Representative BOUFFARD: Thank Mr. Speaker, Men and Women of the House: I know a little bit about insurance, maybe just a little bit, but I know a little bit and insurance rates are based on exposure, risk exposure and I find it very appalling that you would compare a state which has 1,250,000 people when



the city of New York, the city of New York not the state of New York but the city of New York has 8,000,000 people or more. That's how rates are defined and figured out as far as insurance companies are concerned is exposure to risk. I think that 8,000,000 in one city compared to a state of 1,250,000 speaks for itself. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rockport, Representative Gates.

Representative GATES: Thank you Mr. Speaker, Men and Women of the House: There's nothing at all inconsistent with generally low insurance rates in Maine and the fact that we currently don't have a mandatory seat belt law. When you think about what goes into an insurance rate it's how many accidents occur, how often cars get stolen and how badly repair shops gauge you for repairs. Well in Maine that's really not that much of a problem, we're a rural state, there aren't that many accidents. Cars don't get stolen frequently here and we have good solid folks in our car repair shops.

The point is when an accident does occur the injury is much worse if the driver or the passenger is not wearing a seat belt. It's really not disputable that medical insurance costs will go down, because injuries will be less severe with seat belts. So if saving lives is not enough, we will save some money too. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative PERKINS: Thank you Mr. Speaker, Men and Women of House. Referring to the good Representative Bouffard's comments about Maine being a rural state and sparsely settled I would call your attention to the state of Montana tenths on this list and Montana is less populated, way less densely populated than Maine so there are other factors here. That state also has mandatory seat belts, but nobody here I don't think on this side of the argument is arguing that in most accidents you're safer with a seat belt. Most accidents if you go into the water, turn upside down perhaps you wish you weren't fumbling around with it. If you were hit on the side under certain conditions you might wish you didn't. I agree, most of the time there is less severe injury and less death if you have your seat belt on, that isn't the question. There are also less deaths in large cars too, if we were all forced to drive large cars. The other day I asked in this debate, what's next on the list, which probably wasn't a fair question, but I think what a fair question is in this milieu in this continuum, there must be a continuum of items that we can look at that if we impose these on people to change their behavior, it would lower all of our insurance rates and health cost rates. There's got to be and I would invite and urge and encourage somebody to list a few of things that we should be looking at in addition to this instead of saying what's next, what type of things should we be looking at. Certainly this isn't an isolated one. Thank you.

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

Representative VIGUE: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I have a question to the Chair, if I may?

The SPEAKER PRO TEM: The gentleman may pose his question.

Representative VIGUE: Is it proper to discuss seat belts and their use when the motion on the floor is Indefinite Postponement of the Papers?

The SPEAKER PRO TEM: Absolutely, the pending motion would kill the entire bill which requires the use of seat belts.

Representative VIGUE: In that case I will discuss the use of seat belts. I have here a petition signed by a number of people at the Mid Maine Medical Center and every single one lives in Winslow so that there are probably a number of them that signed a like petition and the part of it is injuries, not only have a permanent impact physically, but financially as well. Here we are preaching prevention is the best medicine, we're teaching people about proper diet, exercise, injury prevention, seat belt use, wearing helmets, riding bicycles with helmets, protective gear using roller blades, but we're not going to use probably the most simple thing which is seat belts.

My generation is not firmly entrenched in believing the need for seat belts. I think we are a dying institution and 10 or 20 years down the road we will not be having this kind of a discussion because young people are using their seat belts. My grandchildren embarrass me, they put their seat belt on as soon as they get in the car and I think probably we have something we can learn from the kids and I think we probably should take heed and start doing the same thing. I will be supporting the seat belt law and I urge you to do the same. Thank you.

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.

#### ROLL CALL NO. 84

YEA - Ahearne, Aikman, Ault, Bailey, Bigl, Birney, Bunker, Campbell, Chick, Chizmar, Clark, Clukey, Cross, Damren, DiPietro, Donnelly, Dunn, Gerry, Gooley, Gould, Guerrette, Hartnett, Hatch, Heino, Hichborn, Jacques, Jones, S.; Joseph, Joy, Joyce, Joyner, Kerr, Kilkelly, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Libby JD; Libby JL; Look, Lumbra, Luther, Madore, Marshall, McElroy, Meres, Murphy, Nass, Nickerson, O'Neal, Peavey, Pendleton, Perkins, Pinkham, Poirier, Poulin, Pouliot, Rice, Ricker, Robichaud, Rosebush, Savage, Spear, Stedman, Strout, True, Tufts, Underwood, Waterhouse, Wheeler, Whitcomb, Winsor.

NAY - Adams, Barth, Benedikt, Berry, Bouffard, Brennan, Buck, Cameron, Carleton, Chartrand, Chase, Cloutier, Daggett, Davidson, Desmond, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Green, Greenlaw, Heeschen, Johnson, Jones, K.; Keane, Kontos, LaFountain, Lemaire, Lindahl, Lovett, Martin, Marvin, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, Paul, Plowman, Povich, Reed, G.; Reed, W.; Richardson, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Stevens, Stone, Taylor, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Winglass, Winn, The Speaker.

ABSENT - Dexter, Mayo, McAlevey, Ott, Rotondi, Truman, Yackobitz.

Yes, 74; No, 70; Absent, 7; Excused, 0.

74 having voted in the affirmative and 70 voted in the negative, with 7 being absent, the Bill and all

accompanying papers were indefinitely postponed and sent up for concurrence.

Representative STROUT of Corinth moved to reconsider action whereby Bill "An Act to Require All Persons to Use Safety Belts in Motor Vehicles" (S.P. 77) (L.D. 165) and all accompanying papers was indefinitely postponed.

The Chair ordered a division on the motion to reconsider.

A vote of the House was taken. 65 voted in favor of the same and 74 against, subsequently, the motion to Reconsider failed.

The Speaker resumed the Chair.

The House was called to Order by the Speaker.

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

TABLED - May 4, 1995 by Representative HATCH of Skowhegan.

PENDING - Motion of Representative JOY of Crystal to indefinitely postpone Bill and all accompanying papers.

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

Representative LEMAIRE: Thank you Mr. Speaker, Men and Women of the House: I would like to preface my remarks by saying I am strongly in support of minimum wage. I voted in committee Majority "Ought Not to Pass" on this particular bill because I decided there was a better vehicle that is coming to the floor almost instantaneously. Thank you Mr. Speaker. I urge you to support this motion.

The Chair ordered a division on the motion to indefinitely postpone the Bill and all accompanying papers.

A vote of the House was taken. 102 having voted in the affirmative and 23 voted in the negative, the Bill and all accompanying papers were indefinitely postponed and sent up for concurrence.

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

TABLED - May 4, 1995 by Representative HATCH of Skowhegan.

PENDING - Motion of same Representative to accept the Majority **"Ought to Pass"** as amended by Committee Amendment "A" (H-66) Report.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: We went round and round on this minimum wage bill in our committee and I suppose that we probably will go round and round on it in the House. You just got flooded with a whole batch of information and I wish that I could say that I would vote on this based upon the amount of weight of

papers that I've received for and against this measure, but I'm afraid that I would be sadly outweighed.

Over the past two or three weeks I've checked with 20 or 30 small businesses in my area and the answer when I asked them how do you feel about the minimum wage has always been the same. How would you react to it? I would have to lay off one or two workers, I would have to raise my prices in order to pay for the rest. Unfortunately, what we're looking at here is not just an increase in the minimum wage on the bottom of the scale. What happens when there's an increase and people have several employees if the minimum wage is increased than each one of the employees above that figures that they ought to have a corresponding increase and this is called the ladder effect.

You'll note that one of the pieces of information which was passed out to you said that 20,000 families are struggling to survive on the minimum wage and that's not exactly true. We received information that there are 20,000 people who are employed at the minimum wage level in the State of Maine. However, what they didn't tell you was that most of the 20,000 people that are employed at the minimum wage are people who are students, people who are in training and people who are trying to learn some skills so that they can earn a better wage. The actual average minimum starting wage in the State of Maine is about \$5.30 an hour and this was released in information about two and a half to three months ago. The average amount of time that anybody stays on the minimum wage is about four months. Now we will hear that there are people who have been hung on the minimum wage forever and that probably is not true. I don't know of any situation where anybody is still working at the minimum wage if they have tried to better themselves.

We have had adult education programs which have offered opportunities for people to learn new work skills and they've been around for a long, long time. I've taught many myself and I'm sure that there are many people in here who have had opportunity to instruct other people in adult education to help them learn new skills to try to improve themselves.

You're also going to find that a lot of the information about the benefits of a minimum wage are predicated on a study that was done in New Jersey. New Jersey raised its minimum wage and Pennsylvania did not. There was a survey done which consisted of a bunch of telephone calls that went out to fast food industries and they informed these people that there seemed to be no loss in employment. However, a follow up study of the reports of these payrolls to the Bureau of Taxation showed that indeed there was a significant loss in employment. If there is anyone who truly believes that an increase in minimum wage is going to move people off the welfare roles or move them up on a higher standard of living, I feel very very sad if that's your true belief.

The truth is that every time there has been an increase in minimum wage there has been a corresponding increase in unemployment. In 1933, a bill was passed, the NIFB bill, and it included a minimum wage. The unemployment was already high, but it soared to 22 and 23 percent and stayed there for a long, long time. In 1935, when the bill was repealed the employment dropped to twelve percent. Corresponding increases in unemployment have followed

every single minimum wage pay raise. I think that Maine is surely in a position where it can not afford to raise its minimum wage. The proposed bill, as amended, would increase it to \$4.60 which would make Maine the eighth highest in the nation. If it were increased the following year to \$5 then it would make it the third highest in the nation. I think that what we need to do is to tie our minimum wage to the federal minimum wage law and if that goes up then Maine's goes up and that's what the Minority Report would do. I urge you to defeat the Majority "Ought to Pass" and pass the Minority "Ought to Pass" as amended. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Sedgwick, Representative Volenik.

Representative VOLENIK: Thank you Mr. Speaker, Men and Women of the House: We need to look at who really earns the minimum wage. 63 percent of minimum wage earners are women. 80 percent are adults age 19 or over. 71 percent live in households with below average total household income. Of minimum wage earners who are poor, 65 percent are the sole bread winners of their families. Nationally 500,000 working women are trying to maintain their families on the minimum wage. Two-thirds of part-time workers are women and one out of four part-time workers are paid the minimum wage. 20,000 residents of Maine earn the minimum wage. Poverty is increasing among families and is threatening our social fabric. Households with married couples saw their poverty rate jump from 7.9 percent in 1973 to 19.6 percent in 1990. Multiple job holding and the number of two or more wage families went up in the 1980's. Research has correlated that the lack of well paid jobs has contributed to the falling marriage rate and the increasing rate of out of wedlock pregnancies.

Raising the minimum wage to \$4.60 per hour for someone working 40 hours per week, 52 weeks a year means increasing their total yearly income from \$8,840 to \$9,568. That's \$728 per year or the equivalent of a couple of weekly expense checks for the average legislator. \$8,840 per year total income is about what we legislators average per year in our salary without expense checks and we get health insurance. Most minimum wage earners don't. How many of you could live on your legislative salary alone without expense checks and without medical and dental insurance and no other source of income? I would wager that few if any of you could do so. Yet we expect our minimum wage earners to live on \$8,840 per year.

The minimum wage has risen from 25 cents an hour in 1938 to \$4.25 an hour in 1991. The minimum wage falls every year in real dollars adjusted for inflation. Just since 1991, the value of \$4.25 has dropped another 52 cents or 8 percent, actually 12 percent. \$4.60 per hour rise in the minimum wage won't even cover this decline and by next year the value of the \$4.25 currently will have declined even further than it is now. The reason we raise our minimum wage on a regular basis is so it's value does not decline relative to inflation. We have not kept up with inflation, the real value of the minimum wage is at it's lowest point since 1955 when it was just over \$4 in 1995 dollar terms. Again, in 1995 dollar terms the real value of the minimum wage rose through the 1960's averaging well above \$5 an hour reaching a peak of \$6.49 an hour in 1968. Then it began to fall. Increases in the minimum no longer kept up with inflation, slowly it fell year by year

still remaining close to \$6 an hour until the disastrous 1980's. From 1981, through 1990 the minimum wage in inflation adjusted terms plummeted to a value just above \$4 per hour. At that point the minimum wage was providing only two-thirds of the buying power that it had 10 to 15 years before. To equal the buying power of the minimum wage of 1968 that minimum wage today would have to be \$6.49 an hour.

If a business pays the minimum wage to a worker and that worker is the head of a household, trying to support a family on his or her wages alone, that worker must almost invariably need government assistance to reach poverty level income. \$4.25 per hour, 40 hours per week, 52 weeks a year, remember is \$8,840. In 1994, the poverty level for a family of two was \$9,840, for three it was \$12,320 and for four poverty level income was \$14,800. If your income is \$8,840 and your rock bottom expenses are \$14,800 what do you do? Either you take on another job at \$4.25 an hour and you work 10 hours a day Monday through Saturday with a short seven hour work day on Sunday, 52 weeks a year or you could apply for AFDC, food stamps, general assistance, fuel assistance, subsidized rent, the earned income tax credit, the property tax circuit breaker or other municipal, state or federal programs to supplement your minimum wage income just to get by and depending on your circumstances you may or may not be eligible for that assistance. And who pays for those programs? We all do. All of these are taxpayer funded programs, and who are the taxpayers? Individuals and businesses.

Lets say you're a business and you're paying a living wage to your employees, let say \$6 an hour to start with your top people making \$15 and hour or more and down the road is Drugmart or Sagadahoc Farms Stores, which strangely enough sells no fresh fruit or vegetables and New Brunswick Oil Truck Stop Convenience Store and McPlastics Fallen Arches Restaurant and let's say they all paid their employees \$4.25 an hour and shipped their profits and franchise fees out of state. It's your tax dollars at the local, state and federal levels which pay the welfare which keeps alive the workers those companies pay \$4.25 to. It's in your interest as a responsible company and as a company which does not want to pay more than its fair share of taxes to get those other companies to pay a decent wage so that your taxes will go down. If wages go up, welfare goes down, your taxes go down, businesses taxes go down. We're all pro business and we want responsible businesses to move to this state and to stay in this state, but we don't want to subsidize the wages of businesses that don't pay living wages.

Lets raise our minimum wage for the sake of our hardworking citizens and for our responsible businesses. Our lowest income workers will become more productive and self-sufficient. They will have more purchasing power which help our merchants, landlords, grocers and our tax coffers. This will increase demand and stimulate our economy.

Maine is tied with New Hampshire for the lowest minimum wage in New England. Connecticut has a minimum wage of \$4.27 an hour, Rhode Island has \$4.45 and hour, Vermont is at \$4.50 and will go to \$4.75 an hour in January of 96. Massachusetts is considering an increase to \$4.60 an hour. New York has proposed a minimum wage of \$6 an hour. Alaska and Oregon are at \$4.75, Iowa is at \$4.65, Washington is at

\$4.90, Hawaii and D.C. are at \$5.25 an hour and New Jersey raised its minimum wage to \$5.05 an hour in 1992. At this very moment, other legislatures around the country may be having this same debate and soon be putting in place higher minimum wages in their states.

Maine can join this growing movement to provide decent paying jobs as a realistic alternative to poverty and welfare. You will hear and you have heard arguments that raising the minimum wage costs jobs, it just isn't true. Many studies have shown that increasing the minimum wage has little or no effect on job gain or loss. A study by the Economic Policy Institute in Washington, in 1994, surveyed restaurants in Mississippi and North Carolina, it found no significant change in employment with an increase in the minimum wage. A 1990, Princeton study of 18,000 teen-agers also changed no significant change in employment with an increase in the minimum wage. A 1992, Princeton study of 321 fast food restaurants in New Jersey and 78 in Pennsylvania showed no job loss when New Jersey raised its minimum wage to \$5.05 per hour. In fact, there was a slight job gain. A 1991, study of 100 fast food restaurants in Texas, done jointly by Harvard, Princeton and the U.S. Department of Labor, showed significant increases in employment in firms with mandated wage increases. A Davidson College study of data from 1954 to 86 showed no significant employment changes in young adults ages 20 to 24 when the minimum wage increased by 10 percent.

Employers argue that raising the wages of the lowest paid workers will hurt profits and force businesses to cut back its work force. That they can't afford higher payroll costs. Well employers did increase their payroll expenses tremendous in the last 15 years, only they raised executive salaries and benefits for the upper 20 percent of income earners immensely. Yet these same businesses did not cry poverty or argue that the huge salary increases would force them to cut their salary positions to save money. Business survived this massive increase in payroll expense which far surpassed the proposed two stage 75 cent an hour increase for Maine's minimum wage workers.

Finally, there is historic precedent for minimum wage in Maine that is higher than the federal minimum. From September 1971 to October 1973 Maine's minimum wage was \$1.80. From October 73 to May of 74 it was \$1.90. During that nearly three year period the federal minimum wage stayed at \$1.60 per hour. Maine's minimum wage was 19 percent higher than the federal. Our economy didn't collapse nor did businesses flee the State in droves for cheaper labor. Also from October of 75 to January of 76, Maine's minimum wage was at \$2.30 while the federal wage remained at \$2.10 and the federal minimum wage stagnated at \$3.35 per hour from January of 1981 to April of 1990. Yet Maine's minimum wage rose to \$3.45 in 1985 to \$3.55 in 86 to \$3.65 in 87 to \$3.75 in 89 to \$3.85 in January of 1990. At that point, Maine's minimum wage was 15 percent above the federal wage. We've done it in the past, it hasn't destroyed the economy, we can do it again.

I urge you to listen to your conscience, to listen to your heart and to listen to the facts and vote for an increase in Maine's minimum wage. I also want to comment on something that was mentioned about the study that was done in New Jersey and Pennsylvania. The rebuttal to that study that was mentioned was

funded by the restaurant industry and also by a group called the Employment Policies Institute which puts out lots of these little publications on the minimum wage and the blurb in the front of it sounds very good, it says the Employment Policies Institute is a non-profit research organization dedicated to expanding employment opportunities at all levels in America's economy. In particular EPI believes that entry level positions often provide the best job training and education programs that many Americans especially young Americans and those seeking to move from welfare to work can have by ensuring that these entry level opportunities are preserved for those seeking a port of entry into the workforce America can make substantial improvements in both unemployment and long-term productivity. However, the group is a front for the restaurant industry. What their saying you can not believe so I urge you again to vote your conscience and vote for a raise in the minimum wage. Thank you.

The SPEAKER: The chair recognizes the Representative from Jay, Representative Samson.

Representative SAMSON: Thank you Mr. Speaker, Men and Women of the House: I find it fitting to myself that the first time I rise on this floor its in defense of the men and women of this state, the working men and women. And in this case, for the lowest tier workers in our state, those that earn minimum wage. I was raised to believe that if you work hard, you would be duly compensated and as I grew older I realize that that's not always true. That's why every state sets their own minimum wage.

I find it kind of hypocritical to say lets wait and see what the federal government is going to do, when those of us who say they don't like what the federal government mandates on us. So we have a right in this state to set our own minimum wage.

I once worked for \$4.25 an hour and it was a wage, it was a living wage where I could raise a family and be a good citizen in this state, that was 25 years ago. \$4.25 today is well below poverty level. As was stated earlier, 80 of the people that earn minimum wage are adults, they are not teen-agers, they are adults.

I really don't believe you can be for welfare without increasing the minimum wage. I think it's hypocritical again to say we have to do something about welfare but yet not give people an incentive to get out and work. If I was the mother of two kids, my first responsibility would be to my children. If I thought they would get better care under welfare where they would collect health care and a place to live, I would rather do that frankly, than work the minimum wage where I would actually lose and my family would lose.

I haven't received one call from a minimum wage worker asking me not to raise their wage because they may lose their job. I don't think anybody here has either. I want to remind everybody that this bill to raise the minimum wage is backed by the Maine Council of Churches, by the Catholic Church and a lot of good groups throughout the state of Maine that care about people. I think this is a good bill for business, for taxpayers, for family people and it's a good bill for the families in my district. Thank you.

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

Representative GUERRETTE: Mr. Speaker, Ladies and Gentlemen of the House: I rise today as a former

minimum wage earner and I guess that's the focus of what I'll talk about today. I started like probably many in this body as a minimum wage earner as a young boy. I worked at McDonalds, I worked as a dishwasher, I worked as a bus boy and a lot of other jobs and they were minimum wage jobs and what they were jobs that taught me the value of work and taught me how to be a good employee and taught me what it meant to go to work and check in on time and learn to work with other people. They were not meant to support me the rest of my life.

As an employer in this state of 350 people, Ladies and Gentlemen of the House, I have some experience with the minimum wage, I have many employees that work for the minimum wage. I also have 35 store managers that work for significantly more than the minimum wage. Those store managers earn between \$18,000 and \$32,000 a year, 26 of those 35 store managers started at the minimum wage on a part-time basis. Today they are often supporting families and are the major breadwinner in their homes. They did not start out that way. If this bill passes, on Friday or Saturday night in your local video store you may find 6 employees instead of 7, because I'll simply have to employ one less on the busy times of day and one less person will have a chance to enter the job market and one less person will have a chance to get a job and one less person will have the opportunity to move up the ladder and earn a living wage. That's really what the minimum wage is about Ladies and Gentlemen.

98 percent of the people over the age of 30 in the United States of America do not earn the minimum wage, they earn more than the minimum wage. But most all of them, like myself, started at the minimum wage and they learned a job and learned a career and advanced. Ladies and gentlemen, we need to provide opportunities for people to get entry level training in this state. We need to have an opportunity for poor people to get into the job market to get a job and to move up. Anything that will take away the opportunity for hard working people to get a chance to get a job is not something we want. I stand in support of working people today in the state of Maine and urge that you vote against this pending motion. I want more jobs to be created, I want more opportunity for people to get a chance to earn a living wage and I want Maine to be a place of opportunity and not a place where we don't have jobs for people anymore because they went elsewhere. Only 17 percent of the people earning the minimum wage today are in, what the government defines as poor families, that means 83 percent of them do not live in poor families. For me this is a kin to trying to kill the proverbial mosquito with a sledgehammer. To do this, you may in fact kill the mosquito, but the additional damage you will do will be profound and devastating and may be irreparable. Ladies and Gentlemen, I urge you strongly to vote against the pending motion and to support men and women in the state of Maine who need to find a job and need opportunity.

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

Representative ROSEBUSH: Thank you Mr. Speaker, Men and Women of the House: I also started out working at minimum wage in my early 20's after school, I was lucky enough to land a good paying job after. I just want to talk about what happens to people that get laid off and they start collecting

unemployment and when you go collecting unemployment what do you have to do? On your card you have to go looking for work. Three jobs per week. Now I was receiving \$192 a week, that was for myself, my wife and my daughter. Working a minimum wage job doesn't come anywhere near paying \$192 a week. We have a lot of people out there that won't go out and seek work because they're getting more on unemployment because minimum wage is way low. So what happens? They collect the 26 weeks. In some cases they're able to collect for another 26 weeks and then what happens? They end up on the state and I know through experience through other people that have gone through unemployment with myself, they end up on the state whether they have a spouse that's pregnant, they're on unemployment, who pays the bill? We do, the state. They don't, they end up going on Medicaid. We have a problem with what people are earning in this state and I don't think going to \$4.60 and in 97 going to \$5 is going to hurt. Thank you.

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

Representative LEMONT: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I rise today as a part owner of a small convenience store with gas pumps in the town of Kittery less than 3 miles from the New Hampshire line. We in the state of Maine have the returnable bottle bill, New Hampshire does not. We have a 6 percent sales tax, New Hampshire has no sales tax. We have a gas, a beer, a wine and a cigarette tax, New Hampshire's are all lower. It amazes me how we do business sometimes. This is the last piece of the puzzle that gives us any kind of level playing field with our competition for labor costs of unskilled level entry positions. We need the opportunity to start our employee in the work force and to train and to teach them. For example, in our business alone we started exactly one of our seven employees at minimum wage, they all now are making a great deal more than that within 3 to 6 months there they're advanced to a higher rate.

I believe the free market system should drive wages, for example, in the late 1980's you couldn't hire someone for minimum wage if you wanted to. I have no problem with the federal government taking the lead in this area and we following. I would urge you to vote against the prevailing motion. Thank you.

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

Representative LEMAIRE: Thank you Mr. Speaker, Men and Women of the House: On May 2nd in this House we were privileged to have one of our legislators open our session with a prayer. That Representative was Representative Guerrette. He closed his prayer with these words, be mindful of those less fortunate. I have to say, Men and Women of the House, that there are no more unfortunate people in this state than those people who are struggling on minimum wage and I defy anyone in this House to even think about what they would do now if they had to live on that amount of money right now at this time in their lives, which they could be, if all of those votes that we took on this floor did not support keeping what we call our perks.

I would like to speak a little bit in response to the ladder effect. I think probably the response to those people who are concerned about the ladder effect. Is it an increase and not mandatory from anyone whether it's a large business or a small

business and if anyone questioned you about raising the cost or the price of anything you sold in your store, by a small amount, I think it would be very good to say to them, I really care about what happens to my workers, I'm concerned about what's happening with the economy in this state and I know that people are struggling. That's why I'm asking you to spend a few cents more. I think it's important to repeat something that was said before, there are 20,000 of our citizens in the state of Maine who are your constituents too, 80 percent of those adults. We're not talking about, when I worked for minimum wage, I knew I had parents who were going to help me go through school, I knew I was going to be supported. A lot of these teen-agers, of which are only 20 percent of this population over the 20,000, are working to help families, their own family who are living on minimum wage and because they need to spend money or earn money for school, for college, for themselves. No one is giving anyone a free ride these days. I would also like to state that 63 percent of these are women and we're talking about single women. Men and Women of the House, I see these women in my classroom, they have tried to work on minimum wage, trust me, any single woman working on minimum wage is on AFDC they're on food stamps and they need to have health insurance. People don't stay on welfare because they want to, they cannot afford to get off. Is this going to do it? Is this a first step? You betcha. I urge you to support the Majority "Ought to Pass". Thank you Mr. Speaker.

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

Representative STONE: Thank Mr. Speaker, Ladies and Gentlemen of the House. We do not need legislation to increase minimum wage or to increase wages. What we need is job development. I believe we all remember back into the mid 80's when Maine was booming and in the Portland area you couldn't find anybody who would work at McDonalds for less than \$6 or \$7 an hour. It's simply supply and demand and with better jobs and more jobs there will be greater demand and the wages will automatically go up. Growth raises wages, not legislation. Thank you.

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

Representative GUERRETTE: Mr. Speaker, Ladies and Gentlemen of the House: I did not anticipate rising again on this. I'd just like to say that I believe the way we can help those that are less fortunate than us is to bring jobs to Maine, bring opportunity to Maine and not ship them elsewhere and in so doing we'll help people the best way we know how. Thank you.

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

Representative FARNUM: Mr. Speaker, Members of the House: I'm going to give you a little bit of history of myself. I'm from Lewiston, I worked in Hoggy's Restaurant in Lewiston from 6 to 6 at 75 cents an hour before World War II. I'll never forget it. After the war, I came back there was no jobs, I worked in Columbia stores, grocery stores, for \$1.25 an hour. It taught me one thing, there was something better and I went out looking for it. Thank you.

Representative JOY of Crystal requested a roll call on the motion to accept the Majority "Ought to Pass" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Samson.

Representative SAMSON: Thank you Mr. Speaker, Men and Women of the House: It quite an occasion for me to speak twice in the same day on this. I'd like to draw a parallel to you of what an eight hour day minimum wage worker could buy. \$4.25 per hour for eight hours is \$34. Recently I had the opportunity to take my wife out for dinner and we decided to go to Pizza Hut, that's about our grade of restaurant. Even though I'm a big person I ordered a small pizza, I also drank two beers. My wife also ordered a small pizza and we both had a side order of those bread sticks. She brought her part of her pizza home, I ate all of mine. The parallel I want to draw to you is with the tip the bill came to \$28.62. So, if I was earning minimum wage, without taking the taxes out, I would have had a few bucks left. That's what \$4.25 an hour gets you today.

The SPEAKER: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Thank you Mr. Speaker, Men and Women of the House: I've been sitting here reflecting on a lot of the different stories and everybody's recollections of working for minimum wage and sure enough I think everybody here can say the same for themselves. I know I was lucky enough to start at \$1.75, at my minimum wage and probably different than most of you I was lucky enough to be there when they raised it to \$1.95 and I finally got a raise and it was because they raised minimum wage, that's how I got my first raise, Ladies and Gentlemen. I guarantee you that when we bring this to \$5 that's the first time these people are going to get a raise and it's because we had the fortitude in this body to do that. As far as all the world going to come to an end, history has proven that that doesn't work. I was in there when the raise went in. The people that were working there many years before I was in this garage made substantially more than me and there was no rachitic up effect. The boss had the nerve to look at the other employees and say look you're getting paid 75 cents an hour more than him and you don't deserve another raise as well. So this racheting up effect should not even come in to play. As far as a lot of the concerns of this body that we're going to be laying people off, anybody that's in business knows that it takes X amount of people to do X amount of work and you don't see McDonalds laying people off when there's people standing in line and needing to be served. So I don't even see how that comes into play. So I urge you to vote the "Ought to Pass".

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

Representative CHASE: Thank you Mr. Speaker, Men and Women of the House: I won't tell you about my youth, I'll tell you about a time very recently coming back from a late night poker game. I stopped at Dunkin Doughnuts and was served by a woman who was probably not as old as my mother, but sure had a few years on me and I was just chatting with her and said something about the hour, isn't it late? She said oh yea, but I'm just starting work, I said my gosh you work late and she said that's because I just got off my other job. I met this woman later when I was eating in Waterville, this was a Dunkin Doughnuts in Waterville, she was a waitress in Waterville, a place call Steve's. So what this woman does is to wait on



tables and then go to work after that. The reason I'm telling you this story is because I want to avoid telling you about my youth and also because I want to tell you that the concern I have, has nothing to do with the folks earning training wages and learning to do jobs.

I think starting work is a very important thing, I think you can learn all the lessons that the good Representative from Pittston, Representative Guerrette told us about doesn't matter whether you're earning 25 or 30 cents an hour more or less you'll still learn those lessons. If as many of the people in this body have mentioned that they started at minimum wage and then they went on to better things, I say congratulations, I'm not worried about those folks. I'm not worried about the teen-agers who go home to meals on the table and to roofs over their head. I'm worried about people like the woman I met in Dunkin Doughnuts who are putting food on the table for others and providing the roofs over the heads of others. So that's my concern, that's the down side, the up side is what good we can do by raising the minimum wage. Most folks who are earning minimum wage now don't have huge bank accounts, I trust. I suspect if and when we raise the minimum wage, people will not put that money into their savings account, but will spend it and where will they spend it, they'll spend it in their communities. The very folks who are nervous about raising the minimum wage are going to see the benefit from those people in the state of Maine who will receive more money when we raise the minimum wage.

I suspect we should think about children for a little while too. Think about the slight increase, even if it's just a slight increase, in the lives of the children who live in homes of breadwinners who earn the minimum wage. I'm concerned about those breadwinners, I'm concerned about the children and Men and Women of the House, I urge you to support the Majority "Ought to Pass" as amended report.

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

Representative HICHBORN: Thank you Mr. Speaker. Everyone else is giving a little bit of history, I can give you a little bit of ancient history. My first job was really minimum wage. These people have been talking don't know what minimum wage is.

My first job was 44 hours a week 25 cents a day, gave me \$10.80 for a week on the end of a long handled shovel because I had learned early that a short handled shovel wasn't nearly as effective when it came to working as a long handled shovel. Now we've heard about the ladder effect, the good gentleman from Crystal in his words of wisdom was correct, there is a ladder effect and that ladder effect began the last time back in about 1989, as I remember, it when the last wage increase was given. Nobody has mentioned that the ladder effect also has been working for the worker and the cost of living. That's been going up every single year, year after year after year. Don't forget there are two ladder effects. What's fair for one is certainly fair for the other and I agree that we've had words of wisdom from both people. We do need more jobs but I don't think that increasing the minimum wage is going to mean any loss of wages and there is such a thing as equity and fairness for both employers and employees. I think that when we vote here tonight that we aren't going to hurt employers if we increase the minimum wage. There's a certain amount of work

out there that has to be done and it's going to be done and it will be done and I hope that we can do justice to both. Thank you.

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Campbell.

Representative CAMPBELL: Mr. Speaker, Men and Women of the House: I just want to relate a real world today experience that I've most recently experienced. One of my three jobs is an owner/operator/manager of a small hotel, 56 rooms on the campus of the medical center in Bangor. We have a housekeeping department, that housekeeping department has 5 employees, they are at entry level, which is minimum wage, \$4.25. They quickly rise above that within 30 days and can rise to a point of doubling that, very effectively and easily with good work and progress. Now, if this minimum wage increases, I'll tell you how it's going to affect the business and the competition in the room rental rates. In Bangor, if I looked at my overhead and compared it to the occupancy rate, my room rate, average room rate in order to break even is \$40 a night.

If anybody has driven through Bangor in the past winter you kind find market rates ranging from \$17.95 and they'll cap at \$35. I'm trying to maintain a good service at my lowest rate of \$39. Also, the economy of eastern Maine is affected a little differently than the economy of western Maine. We can take a line and draw it right down through the center of Maine. We're both affected by the Canadian market. The rate of exchange is the same on one side of the state as it is on the other. But on the eastern side we have what they call a border tax which is 17 percent of anything returning, therefore, the Canadians aren't coming. Our room rates are plummeting, our costs are trying to be maintained but just the slight tweaking of our overhead is number one going to reduce the number of employees at my inn. No question, I have to maintain a cost of that payroll. In a market where room rates are declining, I can not increase my wages. They do increase on merit. At this point, I just hired one person, I have one person on minimum wage. Within thirty days they're increased and subsequently they're also increased.

We need to focus on entry level wages in order to bring people into the work place. It's important that we have this maintained at \$4.25. This is not the time to be increasing wages and the ladder effect does come into play, each person who is affected by one below it is expecting an increase in rates and they will get it.

At this time I'd urge you not to pass this bill in order to maintain people in the workplace. Thank you.

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

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House: I own a small convenience store as well as some other folks here and I can tell you that we will have a ladder effect on this. In my particular case, I live in an area where the demand for good employees as such, that we do not start people at minimum wage. As a matter of fact, we start our folks at \$6 an hour. But I can tell you that if this minimum wage goes into effect everyone of those employees will demand a corresponding increase and if I don't give it to them, they're going to go to my competitors who will.

I've been in my business long enough so that I can predict what my total sales are going to be for the year and I know how much I can afford for payroll. Right now I have 5 part-time adults and 4 part-time students working for me. If the minimum wage goes into effect, I'm not going to lay anyone off but each one of those adult employees will have a corresponding reduction in the amount of hours that they work for me.

Someone else brought up the point that I could raise my prices a few pennies in order to pay for this minimum wage. But I can tell you that in the competitive market that we're in if I were to raise my prices even 1 or 2 percent, my customers would go to my competitors.

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

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: I've just been sitting here doing some quick little calculations. I'm not going to talk about ladder effect and so forth, but someone mentioned the earned income credit here at the beginning of the debate here. The earned income credit is something that kicks in automatically on your income tax return. It can be as much as \$3,000 a year. Now if you take the \$3,000 that's going to someone earning minimum wage, and these people would probably qualify for it if you had a single person, and I'm not talking about students, students do not qualify for the earned income credit, they have to be people that are working or people with families. If you took that \$3,000, they wouldn't be paying Social Security on that, so that's an equivalent of \$3,225 a year, you divide that by a full work week, that's \$1.55 an hour. So these people on minimum wage who are working have families are getting up to \$1.55 an hour through a federal subsidy. If it's \$2,000 a year it's going to slide down. As you increase their wages you decrease their earned income credit, so what are you doing here. How much of a benefit are you really giving to somebody. If you're going to take away over here to give, ought to have an employer, who's already paying the taxes to give him over here. So think about that and keep in mind these minimum wage people we're hearing many of them are students that don't get this, they shouldn't get this. But people who have families if they're working at minimum wage they're being subsidized at least \$1.00 to \$1.50 an hour. 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 Livermore, Representative Berry.

Representative BERRY: Mr. Speaker and Colleagues of the House: Thank you. I have no regrets about dragging this debate out if it's something important to say and I feel it's important.

We've heard from the great class of employers, I guess I'm not from that class I'm a working person, I work for a wage, I expect a decent wage. I work in the paper industry, I don't work for minimum wage and

I don't expect others to work and labor for the benefit of the greater class and unjust wage.

There are food chains that I can think of that they pay their workers, they pay them a little over minimum wage, but they won't let them work 40 hours and week, they won't let them qualify for the benefits, so they may have to work another job. They may be training to sell video tapes, I don't know how long you have to train to sell a video tape or rent a video tape but I know there has been some video tape stores that have grown through this state, have expanded, while the employees make minimum wage.

What's the definition of a entry level wage and a training wage? Now how long does it last? These people who have families they need to support their families. Never mind their earned income credit, let them earn their wage to buy their groceries and to pay their rent. As far as the business, you know we can go out into the halls and we can find every bill we talk on in the committees - Oh, this is going to happen to business, this is going to happen to business, look what's happened to the people out there. You want to start welfare reform, here's the first step. Thank you.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Samson.

Representative SAMSON: Thank you Mr. Speaker, Men and Women of the House: I didn't mean to speak three times this evening, but I feel I must. First of all don't be fooled by people that think that they're hiring people to train them for something better, they're hiring people because they think they need them to provide a service or provide production for their facilities. Let's be honest that's why they hire these people.

I had the opportunity a couple of years ago to work with some people that work here in the state of Maine and work in what I call a sweat shop. They work in the textile industry, they work by piece work. Mostly women, maybe 70 percent women. The place they work is very hot in the summer, very cold in the winter and dusty all the time. These people are put on particular jobs where the faster they work, the more production they produce, the higher their rate of pay. Unfortunately, what happens is management, once they reach a high rate of pay, take them off that particular job and put them on another job. Then they struggle again for days and weeks and months to build up their speed so they can once again make a decent wage. Then again they're taking off their job and put on another one. But these women they work very hard and I'm not going to tell you which one of our towns that place is located. These women say, well at least they give us minimum wage, \$4.25 an hour. And I'll tell you it's hard for me as a big man to say that was one of the most emotional times of my life was having to work there. A couple of times I went in my car and cried, because of how these people were treated, some of them pregnant women. That's why I stand up today even though I have a fear of public speaking, because I'm here to fight for the working men and women of this state.

Representative MITCHELL of Vassalboro moved to table until later today pending the motion to accept the Majority "Ought to Pass" as amended Report.

Representative LUTHER of Mexico requested a division on the motion to table.

Representative MITCHELL of Vassalboro withdrew her motion to table.

ROLL CALL NO. 85



YEA - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kontos, LaFountain, Lemaire, Lemke, Luther, Martin, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, Paul, Pendleton, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Tuttle, 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, Heino, Jones, S.; Joy, Joyce, Joyner, Kerr, Kilkelly, Kneeland, Labrecque, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, McElroy, Murphy, Nass, Nickerson, Peavey, Perkins, Pinkham, Plowman, Poirier, Poulin, Povich, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, Tripp, True, Tufts, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

ABSENT - Dexter, DiPietro, Mayo, McAlevey, O'Neal, Ott, Pouliot, Rotondi, Truman, Yackobitz.

Yes, 67; No, 74; Absent, 10; Excused, 0.

67 having voted in the affirmative and 74 voted in the negative, with 10 being absent, the Majority "Ought to Pass" as amended Report was not accepted.

Subsequently, the Minority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "B" (H-67) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, May 11, 1995.

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On motion of Representative GOULD of Greenville, the House adjourned at 9:00 p.m., until 9:30, Thursday, May 11, 1995.