

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
42nd Legislative Day
Thursday, May 11, 1995

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

Prayer by the Reverend John Dunn, Jr., United Baptist Church, Ellsworth.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Joint Resolution: (S.P. 557)

JOINT RESOLUTION COMMEMORATING THE USS MAINE

WHEREAS, the USS Maine is a new Trident submarine built in Groton, Connecticut and named after the State of Maine, which is the 3rd time a ship has had this noble and illustrious name; and

WHEREAS, the first USS Maine exploded and sank in Havana Harbor in Cuba in 1898 with great loss of life and under mysterious circumstances and "Remember the Maine" became the rallying cry for entrance into the Spanish-American War; and

WHEREAS, the 2nd USS Maine was laid down a year to the day of the explosion of its predecessor and, when launched, served with distinction in the United States Navy, was part of President Theodore Roosevelt's "Great White Fleet," was decommissioned twice, sold in 1922 and subsequently scrapped in accordance with an arms limitation treaty; and

WHEREAS, the newest and grandest of the ships to bear the name of the State of Maine is a missile-launching Trident submarine and with our rich seafaring culture and nautical history it is only fitting that this magnificent vessel will be commissioned in our State; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Seventeenth Legislature, now assembled in the First Regular Session, commemorate, with honor and pride, the commissioning of the newest United States Navy Trident Submarine, the USS Maine; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Secretary of the Navy and to each member of the Maine Congressional Delegation on behalf of the People of the State of Maine.

Came from the Senate read and adopted.

Was read and adopted in concurrence.

Bill "An Act to Amend the Laws Governing Child Support" (S.P. 556) (L.D. 1516) (Governor's Bill)

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

Was referred to the Committee on Judiciary in concurrence.

Ought to Pass as Amended

Report of the Committee on Legal and Veterans Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-121) on Bill "An Act to Clarify the Liquor Licensing Laws for Certain Eating Establishments" (S.P. 94) (L.D. 234)

Came from the Senate, with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-121).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-121) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, May 16, 1995.

Ought to Pass as Amended

Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-113) on Bill "An Act to Clarify the Sales Tax Law Applicable to Packaging" (S.P. 207) (L.D. 550)

Came from the Senate, with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-113).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-113) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, May 16, 1995.

Ought to Pass as Amended

Report of the Committee on Criminal Justice reporting "Ought to Pass" as amended by Committee Amendment "A" (S-114) on Bill "An Act to Clarify Juvenile Detention" (S.P. 354) (L.D. 982)

Came from the Senate, with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-114) and Senate Amendment "A" (S-129).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-114) was read by the Clerk and adopted. Senate Amendment "A" (S-129) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, May 16, 1995.

Divided Report

Eight Members of the Committee on Committee on Utilities and Energy on Bill "An Act to Release the Public Utilities Commission from Mandatory Participation in Welfare Programs" (S.P. 149) (L.D. 335) reporting in Report "A" that the same "Ought Not to Pass"

Signed:

Representatives:

KONTOS of Windham
ADAMS of Portland
GIERINGER of Portland
O'NEAL of Limestone
POULIN of Oakland
LUTHER of Mexico
HEESCHEN of Wilton
POIRIER of Saco

Four Members of the same Committee on same Bill reporting in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "A" (S-117)

Signed:

Senators:

CARPENTER of York
HARRIMAN of Cumberland
TAYLOR of Cumberland
STONE of Bangor

One Member of the same Committee on same Bill reporting in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "B" (S-118)

Signed:

Senator:

CLEVELAND of Androscoggin

Came from the Senate with Report "B" "Ought to Pass" as amended read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-117)

Was read.

Representative KONTOS of Windham moved that the House accept Report "A" **"Ought Not to Pass"**.

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

Divided Report

Majority Report of the Committee on **Legal and Veterans Affairs** reporting **"Ought Not to Pass"** on Bill "An Act to Prohibit Campaign Signs on Public Property" (S.P. 288) (L.D. 786)

Signed:

Senators: STEVENS of Androscoggin

MICHAUD of Penobscot

Representatives:

NADEAU of Saco

TRUMAN of Biddeford

LABRECQUE of Gorham

FISHER of Brewer

TRUE of Fryeburg

CHIZMAR of Lisbon

MURPHY of Berwick

LEMONT of Kittery

GAMACHE of Lewiston

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-128) on same Bill.

Signed:

Senator: FERGUSON of Oxford

Representative: BUCK of Yarmouth

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

On motion of Representative NADEAU of Saco the Majority **"Ought Not to Pass"** Report was accepted in concurrence.

Non-Concurrent Matter

Bill "An Act to Create a Purple Heart License Plate" (H.P. 102) (L.D. 137) which was passed to be engrossed as amended by Committee Amendment "A" (H-154) in the House on April 27, 1995.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-154) as amended by Senate Amendment "A" (S-123) thereto in non-concurrence.

The House voted to Recede and Concur.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

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

Labor

Bill "An Act to Amend the Earnings Limitations under the Disability Plan" (EMERGENCY) (H.P. 1078) (L.D. 1520) (Presented by Representative JACQUES of Waterville) (Cosponsored by Senator HANLEY of Oxford and Representatives: GUERRETTE of Pittston, GWADOSKY of Fairfield, JOSEPH of Waterville, KERR of Old Orchard Beach, MADORE of Augusta, MITCHELL of Vassalboro, PINKHAM of Lamoine, POULIN of Oakland, SAMSON of Jay, Senators: CAREY of Kennebec, HALL of Piscataquis, PARADIS of Aroostook) (Approved by a

majority of the Legislative Council pursuant to Joint Rule 27.)

Legal and Veterans Affairs

Resolve, to Allow Jose Gonzales to Bring an Action Against the State (H.P. 1077) (L.D. 1519) (Presented by Speaker GWADOSKY of Fairfield) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Taxation

Bill "An Act to Make the Maine Income Tax a Percentage of the Federal Income Tax" (H.P. 1079) (L.D. 1521) (Presented by Representative SIMONEAU of Thomaston) (Cosponsored by Representatives: BUCK of Yarmouth, CAMPBELL of Holden, CARLETON of Wells, DIPIETRO of South Portland, HARTNETT of Freeport, JOYNER of Hollis, KILKELLY of Wiscasset, MARVIN of Cape Elizabeth, McALEVEY of Waterboro, NICKERSON of Turner, OTT of York, ROSEBUSH of East Millinocket)

ORDERS

On motion of Representative HICHBORN of Lagrange, the following Order: (H.O. 24)

ORDERED, that Representative Joseph H. Bigl of Bucksport be excused May 10 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Brenda Birney of Paris be excused May 4 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Charles H. Heino of Boothbay be excused May 9 for legislative business.

Was read and passed.

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative CHASE from the Committee on **Banking and Insurance** on Bill "An Act to Require Prior Notice of Cancellation of Group Health Insurance Policies" (EMERGENCY) (H.P. 765) (L.D. 1039) reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-231) Report was read and accepted. The Bill read once. Committee Amendment "A" (H-231) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, May 16, 1995.

Ought to Pass as Amended

Representative GOULD from the Committee on **Natural Resources** on Bill "An Act to Amend the Toxics in Packaging Law" (H.P. 766) (L.D. 1040) reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-234)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-234) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, May 16, 1995.

Divided Report

Majority Report of the Committee on **Criminal Justice** reporting **"Ought Not to Pass"** on Bill "An Act to Establish a Presumption That the Owner of a Motor Vehicle Is the Driver If That Vehicle Is Involved in a High-speed Chase" (H.P. 266) (L.D. 368)

Signed:

Senators: BENOIT of Franklin
O'DEA of Penobscot
Representatives: CLARK of Millinocket
GOOLEY of Farmington
JOHNSON of South Portland
McALEVEY of Waterboro
PEAVEY of Woolwich
THOMPSON of Naples
WHEELER of Bridgewater

Minority Report of the same Committee reporting
"Ought to Pass" as amended by Committee Amendment "B"
(H-223) on same Bill.

Signed:
Senator: HALL of Piscataquis
Representatives: WATERHOUSE of Bridgton
BUNKER of Kossuth Township
CLUKEY of Houlton

Was read.

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

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

Divided Report

Majority Report of the Committee on Criminal Justice reporting "Ought Not to Pass" on Bill "An Act to Prohibit the Use of State Money and Personnel to Conduct Warrantless Searches by Helicopters" (H.P. 555) (L.D. 756)

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-226) 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.

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

Divided Report

Majority Report of the Committee on Utilities and Energy reporting "Ought to Pass" as amended by Committee Amendment "A" (H-229) on Bill "An Act to Further Encourage Electric Rate Stabilization" (EMERGENCY) (H.P. 1037) (L.D. 1456) (Governor's Bill)

Signed:
Senators: CARPENTER of York
HARRIMAN of Cumberland
CLEVELAND of Androscoggin
Representatives: KONTOS of Windham
TAYLOR of Cumberland
GIERINGER of Portland

O'NEAL of Limestone
POULIN of Oakland
STONE of Bangor
HEESCHEN of Wilton
POIRIER of Saco

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

Signed:
Representatives: ADAMS of Portland
LUTHER of Mexico

Was read.

Representative KONTOS of Windham 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.

CONSENT CALENDAR

First Day

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

(S.P. 317) (L.D. 898) Bill "An Act to Amend the Procedures for Conducting a School District Referendum" Committee on Education and Cultural Affairs reporting "Ought to Pass"

(S.P. 349) (L.D. 977) Bill "An Act to Remove Outdated and Duplicative Provisions from the Statute Governing the Office of Substance Abuse" Committee on Human Resources reporting "Ought to Pass"

(S.P. 419) (L.D. 1142) Bill "An Act Regarding Abandoned Prescription Drugs at State Facilities" Committee on Human Resources reporting "Ought to Pass"

(S.P. 140) (L.D. 326) Bill "An Act to Clarify the Tax Records Laws" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-111)

(S.P. 265) (L.D. 705) Bill "An Act to Discourage Prescription Drug Fraud" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-120)

(S.P. 283) (L.D. 771) Bill "An Act to Expand Access to Financing for Health and Social Service Agencies" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-122)

(S.P. 307) (L.D. 846) Bill "An Act to Provide Funds for Family Crisis Shelters" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-110)

(S.P. 365) (L.D. 991) Resolve, to Strengthen Fish Hatchery Capacity within the State by Establishing a Partnership between Public and Private Organizations (EMERGENCY) Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-116)

(H.P. 710) (L.D. 967) Bill "An Act to Amend the Adult Protective Services Act to Allow Referrals of Cases of Abuse, Neglect and Exploitation to Law Enforcement Agencies" Committee on Human Resources reporting "Ought to Pass"

(H.P. 790) (L.D. 1107) Bill "An Act to Establish Minimum Qualifications for the Office of Sheriff" Committee on State and Local Government reporting "Ought to Pass"

(H.P. 311) (L.D. 415) Bill "An Act to Require Uniform Public Access and Tax Status for Water Districts" Committee on Utilities and Energy

reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-228)

(H.P. 602) (L.D. 812) Bill "An Act to Amend the Laws Specifying the Place of Imprisonment" Committee on Criminal Justice reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-233)

(H.P. 614) (L.D. 824) Bill "An Act to Amend Certain Laws Pertaining to the Department of Environmental Protection, Bureau of Hazardous Materials and Solid Waste Control" (EMERGENCY) Committee on Natural Resources reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-227)

(H.P. 859) (L.D. 1190) Bill "An Act to Ensure Disclosures under the Used Car Information Laws" Committee on Business and Economic Development reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-236)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, May 16, 1995 under the listing of Second Day.

(H.P. 835) (L.D. 1166) Bill "An Act to Provide for Certain Amendments to Laws Affecting the Finance Authority of Maine" (EMERGENCY) Committee on Business and Economic Development reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-235)

On motion of Representative GWADOSKY of Fairfield, was removed from the Consent Calendar First Day.

The Report was read and accepted. The Bill read once. Committee Amendment "A" (H-235) was read by the Clerk and adopted.

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

Under further suspension of the rules the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-235) and sent up for concurrence. Ordered sent forthwith.

CONSENT CALENDAR

Second Day

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

(S.P. 369) (L.D. 1046) Bill "An Act to Amend the Displaced Homemakers Act"

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

(H.P. 162) (L.D. 210) Bill "An Act to Expand the Membership of the Loring Development Authority of Maine"

(H.P. 856) (L.D. 1187) Bill "An Act to Allocate the State Ceiling Governing the Issue of Private Activity Bonds" (EMERGENCY)

(H.P. 915) (L.D. 1291) Bill "An Act to Amend the Income Eligibility Criteria of the Small Community Wastewater Program"

(H.P. 924) (L.D. 1305) Bill "An Act to Clarify the Supervision of Juveniles Under Observation"

(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 (C. "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" (C. "A" H-222)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed

to be Engrossed in concurrence and the House Papers were Passed to be Engrossed or Passed to be Engrossed as Amended and sent up for concurrence.

BILLS IN THE SECOND READING

As Amended

Bill "An Act Regarding School Employees Serving on School Boards" (H.P. 14) (L.D. 8) (C. "A" H-218)

Bill "An Act to Limit Copayments for Participants in Medicaid Managed Care Demonstration Projects" (H.P. 233) (L.D. 313) (C. "A" H-198)

Bill "An Act to Allow Election Officials to Request Identification from Prospective Voters" (H.P. 251) (L.D. 353) (C. "A" H-43)

Bill "An Act to Amend the Laws Governing Wrongful Death Caused by Truck Drivers" (H.P. 292) (L.D. 396) (C. "A" H-212)

Bill "An Act to Ensure Children's Rights Concerning Visitation and Access" (H.P. 341) (L.D. 461) (C. "A" H-211)

Bill "An Act Concerning Grandparents' Rights of Visitation and Custody" (H.P. 364) (L.D. 484) (C. "A" H-210)

Bill "An Act to Ban the Tripping of Horses" (S.P. 316) (L.D. 897) (C. "A" S-107)

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

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

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

On motion of Representative BIGL of Bucksport was set aside.

The same Representative presented House Amendment "A" (H-206) which was read by the Clerk and adopted. The Bill was passed to be engrossed as amended by House Amendment "A" (H-206) in non-concurrence and sent up for concurrence.

Bill "An Act to Amend the Notification Requirements Regarding Automated Telephone Solicitation" (H.P. 100) (L.D. 135) (C. "A" H-214)

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

On motion of Representative CARLETON of Wells was set aside.

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

Bill "An Act to Increase the Minimum Wage in Maine" (H.P. 108) (L.D. 143) (C. "B" H-67)

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

On motion of Representative HATCH of Skowhegan was set aside.

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

Bill "An Act Concerning Municipal Rent Control" (H.P. 474) (L.D. 655) (C. "A" H-200)

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

On motion of Representative JACQUES of Waterville was set aside.

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

ENACTORS

Emergency Mandate

An Act to Create the Franklin Utility District (S.P. 256) (L.D. 694) (C. "A" S-58; H. "A" H-192)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and 1 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

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

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

An Act to Clarify Detention Responsibilities (S.P. 388) (L.D. 1065)

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

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

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

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

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

The following item was taken up out of order by unanimous consent:

SENATE PAPER

The following Joint Order: (S.P. 560)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, May 16, 1995, at 9:30 o'clock in the morning.

Came from the Senate, read and passed.

Was read and passed in concurrence. 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 Utilities and Energy - (11) Members "Ought to Pass" as amended by Committee Amendment "A" (H-229) - (2) Members "Ought Not to Pass" on Bill "An Act to Further Encourage Electric Rate Stabilization" (EMERGENCY) (H.P. 1037) (L.D. 1456) (Governor's Bill) which was tabled by Representative KONTOS of Windham pending her motion to accept the Majority "Ought to Pass" as amended Report.

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

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Windham, Representative KONTOS.

Representative KONTOS: Thank you, Mr. Speaker, Men and Women of the House: On the record, following what I hope was a productive joint caucus for the members of this body to help understand the issue before you. The Bill, L.D. 1456, asks you to approve an extension of time on a program called the Electric Rate Stabilization Act and asks you approve to an additional opportunity for FAME to increase its bonding to some \$100,000,000 dollars to \$220,000,000 dollars.

The intent of that increase bonding is to allow financing for, in this case, a particular project for Bangor Hydro, and the opportunity for Maine Public Service to also take advantage of this money. The advantage is two fold, there's an advantage to the utility itself by financing the buy down of a contract, the buyback of a contract with two independent power producers. The advantage to ratepayers in the Bangor Hydro service territory is to stabilize rates because it reduces the costs of Bangor Hydro for doing business.

The savings to ratepayers will be in the neighborhood of \$60,000,000 dollars over the life of this transaction, which is ten years. The contract has already been approved by the Public Utilities Commission. If we approve this additional funding it allows the Finance Authority of Maine to evaluate the merit of the transaction and approve or disapprove of that.

The majority of the Committee, having weighted a variety of issues that are peripheral to the bill before you, believe this approval is in the best interest of Bangor Hydro as a company, the ratepayers in that service territory and the opportunity to ensure that businesses will be able to have more competitive electric rates as they look at expansion of jobs or retention of jobs and with that I will close my remarks for now presuming there will be other questions later on that I may be able to respond to. Thank you Mr. Speaker.

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 want to briefly explain why I am on the "Ought Not to Pass" Report on this bill. This bill came through to us, another one of those bills that comes very, very quickly, originally the amount was \$100,000,000 dollars, than someone

said, well, really you should do this for \$120,000,000 dollars, and in less than a half hour we had the amendment that would make it \$120,000,000 dollars. I asked questions because I think rates should be reflected in your bill and I wanted to know, how is this going to help people who are having a hard time paying their bills and I specifically asked the question to the Public Advocate because there was the amount to be borrowed of \$60,000,000 in savings and his exact sentence and I will never forget this because it's the most wonderful sentence I've heard down here.

Well the \$60,000,000 dollars is an imaginary figure because what they get in savings they are going to have to use to pay off the loan, so will you see it reflected in your bills? No you will not. So is this a good deal? It sure is. This is a really good deal for Bangor Hydro and I have no problem with that. It's an even better deal for the two little companies that are going to get the full amount of their contract, plus they're going to own the utilities, plus they can will it or they can dismantle it and sell it. It's really a great place to be. Is it good for the people who are looking to pay electric bills? As far as I can see it's neither here nor there for them.

What troubles me very much, and still troubles me very much is the side agreement clause no one came to oppose this bill and later we found out no one came to oppose this bill because the selectmen of both towns plus one of the Representatives of the towns had signed a side agreement that they would not oppose this bill in return for some other small benefits they desperately needed. I think that is a terrible thing. I represent small towns myself. I don't think a legislator can take on a major business in this state and I want you to think about it in that way.

Where are you going to be when your big business comes and says, this or that and if you oppose us you'll get nothing. I certainly hope this has not happened before and I want everybody to know about it so it will not happen again and I ask, I know she is embarrassed to have to do this, and I'm sorry to put her on the spot, but I think the process of this is really odious and I would like it if the good Representative Theone Look from Jonesboro would explain the side agreement to us, because I think we probably ought to have a law up here that if a Representative has their name on a side agreement it's automatically null and void.

I'm going to be voting against this and I hope you will join me in voting against it. Thank you, Mr. Speaker.

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

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: I think that we are missing the point. We have two companies, the Babcock Ultra-Power and the Bangor Hydro. They are free to buy, to bargain, to sell, to buy a contract, to do whatever they please. That's none of our business. That is not the subject of the discussion here today. Whether they buy this contract with a guarantee from FAME as a backup or as an endorser of this loan which does not involve money, unless they go bankrupt and you and I know that the Bangor Hydro isn't going to go bankrupt.

It's to go to the bank and borrow the money at a higher rate of pay, at a higher rate of interest that

the taxpayers are going to be paying or the ratepayers are going to be paying. That's the question. Do you want to pay more interest to get the money from the bank than you do if they get it from a guaranteed loan from FAME? That's the question. I speak because I've lived in that area for 60 years and I know the people who work there and it's the best deal that the people in our area can get. For those people in that district I hope that you will vote to approve this guaranteed loan. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative STONE.

Representative STONE: Thank you, Mr. Speaker, Ladies and Gentlemen of the House: There are two issues that I've heard discussed in the halls today that I'd like to address. One is, what happens if Bangor Hydro defaults and doesn't have the money and what's going to happen to FAME and what's going to happen to the integrity of the state. The first issue is that for this deal to go through, FAME, up front automatically gets a sufficient amount of money to pay interest for one year in case there's any problem with payments from Bangor Hydro.

This would allow FAME to work out arrangements to continue to get sufficient funds to pay off the remaining debt. FAME also stated in hearings in the Utilities Committee they believe that they have sufficient collateral to cover the debt. The fact that FAME feels secure that they have the collateral and the fact that the money has to be paid up front to cover any possible contingency, at least for a year and the interest money is already there. This should satisfy the concerns of people who have asked those questions.

This issue is not about energy policy and it's not about jobs. What we're deciding here today is whether we want to allow Bangor Hydro to save an additional \$20,000,000 dollars beyond the money they are going to save and pass that on to the ratepayers. Now they don't pass it on to the ratepayers by sending a check or sending them coupons or reducing the rate tomorrow morning, they pass it on by putting off future increases. Now we could go through present value and all those other calculations, but the real issue is do we want to allow Bangor Hydro to use FAME, if FAME feels secure with the proposal to save an additional \$20,000,000 dollars.

Everybody sits here and constantly talks about what are we going to do for the people in Maine. Here's an opportunity to save \$20,000,000 dollars to the people in a portion of Maine and it won't cost us anything and in my mind that's a great deal. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Enfield, Representative LANE.

Representative LANE: Thank you, Mr. Speaker, Ladies and Gentlemen of the House: I'm not going to get involved in the technical aspects of this, but I'd like you to know that I come from Enfield, which is one of the towns involved. I've had a crash course in all of this in the last month or so and at first I panicked and I came out opposed to this buyout, opposed to all sort of reasons including the philosophical idea of FAME money being used to buyout a company and eliminate jobs. I've studied it thoroughly and I do concur with my good neighbor from Lagrange that we have to realize some things.

First of all these are two private companies and we are not, and I hope we never shall be, a socialistic country. They have the right to negotiate as they please and from a citizen of Enfield's standpoint, I must say on the part of Babcock-Wilcox, they have bent over backwards looking, contacting us, talking, trying to find ways of keeping the jobs open and an alternative to producing power. One of the problems they had was even though they could produce and sell power, because this is just a contract buyout, this is nothing to do with ability to produce power. They still can do that.

One of the problems they had was the inability to transmit that power to potential customers. Bangor Hydro has agreed to facilitate this by providing transmission service. That door has been open so now it's available to them to produce electricity in a competitive way. There's a possibility, probably vague, but nevertheless there's a possibility in this scenario that these jobs, at least in Enfield will not be lost. As far as this agreement, which I must tell you, I'm also an intervener in this case. I'm not a town official, I'm a legislator, and thus applied and received intervener status.

I was not asked to sign this agreement, only the officials of the town were asked to sign this agreement. There was absolutely no gag rule applied to me or to Theone as a legislator in her legislative capacity. I also must tell you that, and this has taken a lot of sleepless nights, and a lot of wondering on my part, what is right, we are sort of hoisted by our own petard in this situation because of the federal mandates years ago, we are in this situation. None of us like it, and we certainly don't like the loss of jobs, but we are in a situation which I feel, this is the best resolution.

This agreement, ladies and gentlemen, this agreement that has been talked about was not instituted by Bangor Hydro or Babcock-Wilcox, this was drafted by the lawyer from the town of Jonesboro. This is a pro-town agreement, that is my understanding. It is for the town. Part of the negotiation process, that I know all of us realize that part of negotiation is give and take, was the agreement not to appeal the decision. I believe, if I'm correct, that if they were to appeal the decision, it would set back the process about a year and really everyone would be in trouble at that point.

I believe as far as stabilization, there was a covenant, a five year covenant agreed about a year ago between Bangor Hydro and the PUC saying they would not increase rates for five years if they could lower their rates in order to encourage business. During that time, of course, inflation and other things have driven up their costs. The only way they can meet that covenant, the only way they can guarantee a stabilization of rate increase is by this contract, by this deal. I believe also if FAME is not backing it and the hardest thing philosophically I had to come up against, it was the FAME backup, which was initially created to promote jobs. It is now being used in an area for possible job loss and I had a hard time dealing with that, but I also realize in my situation that if FAME does not back up this money, Bangor Hydro will borrow the money, they will go through with the deal.

However, the money they will save in interest rates by having FAME backup will be lost and so will the 80 percent of and 60 percent of the decrease in

tax rates paid back to the towns of Enfield and Jonesboro so the deal will be that we lose our deal. This is the best case scenario for the town of Enfield, the best case scenario for the town of Jonesboro and there are, I believe, somewhere in the neighborhood of 26 other small power producers that may be facing this same situation down the road and I think it establishes at least a healthy precedence to think that the power companies will agree to make up the tax loss down the road and I urge you to vote for it. Thank you.

Representative LUTHER of Mexico 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 Wiscasset, Representative Kilkelly.

Representative KILKELLY: Thank you, Mr. Speaker, Men and Women of the House: As I've heard more and more about the agreement and the discussion that went on around that. I was sitting here thinking of my selectmen's hat and the fact that Maine Yankee is obviously the largest taxpayer in the town of Wiscasset. If I, as a selectman, were faced with the kind of loss, immediate loss, that the folks in the town of Jonesboro and the town of Enfield were faced with, I would be doing exactly the same kind of thing that I hear them doing. Going to the attorney and just saying how can we work something out so that we're in a position to make the best out of a situation that is not a good situation.

How can we take some time to push this forward so we're not going to lose this all at once. I think that's really important for us to think about, and when we think about jobs and FAME money being used to create jobs, and in this case, FAME money being used with losing jobs. I think it is also important for us to know that there are an awful lot of other jobs that are also on the line. The loss of any job is not a positive situation, obviously, but at the same time, I know from work that was done in the Agriculture Committee that there are lots of farmers and there are lots of folks that are dealing with Agri-business ventures that are very, very concerned about power rates in this state. If we have a way to resolve some of their issues and either maintain or expand those jobs then, in fact, the sixty jobs can be folded into a net gain of jobs in the long run and I think that's really important. Thank you.

The SPEAKER PRO TEM: The Chair recognizes to Representative from Jonesboro, Representative LOOK.

Representative LOOK: Thank you, Mr. Speaker, Ladies and Gentlemen of the House: I had never intended to speak before this body on this issue. However, because of the discussion that has come up, I will speak very briefly. On the matter of the settlement agreement, those of you who were in the House earlier, heard me mention the reason why my town was concerned about this, but I'm going to address this solely to the settlement agreement.

I received a phone call one night from the attorney for the town of Jonesboro, saying that an agreement had been drafted and that the selectmen of my town, had verbally agreed and asked if I would. I said, "Well, if the selectmen agree to that than, I guess I've got to." However, I had not seen the agreement, but I'm going to give you the introduction of the agreement and I'm going to skip over all the whereases and go to something else.

This agreement if made and entered into under Maine law on the 5th day of May, which was the date it was signed, but not written, between and among Bangor Hydro Electric Company, a Maine utility with a place of business at Bangor, County of Penobscot, State of Maine, petitioner and the town of Jonesboro, a municipal corporation of Washington County, Maine, the town of Enfield, a municipal corporation of Penobscot County, Maine and Theone Look, an individual of Jonesboro, County of Washington, State of Maine, intervenor. I'm going to stop right here, and say, I am not sure why I was named individually in this, except perhaps the fact that as an intervenor, I participated in the Public Utilities Commission hearing and maybe as later is worded what is happened on this, maybe some of my comments or my presentations were filed previous to that commission hearing and were not given out verbally.

Maybe that is one of the reasons why I am named individually. However, let's skip over to what comes after the Therefore, in a mutual consideration of the within promises and for other good and valuable considerations received and sufficiently whereof is acknowledged by the parties. The parties agree as follows:

1. Wavier of appeal, intervenors hereby waive all rights of appeal of the Public Utility Commission decision under docket no. 95-109, including any right to appeal from the decision to issue a certificate approving rate stabilization under title 35 MRSA section 3156 issued on or about May 1st, 1995. 2. A covenant not to oppose legislation. Now this seems to be one of the core things here, and the right of the intervenors to make an agreement. Intervenors agree that they will take no action to oppose legislation currently pending before the Maine Legislature on L.D. 1456 and the title of it, To Extend the Incumbrance Limit of the Finance Authority of Maine, FAME, in an amount sufficient to accommodate the financing by petitioner of the cost of the buy back.

Provided that this paragraph shall in no way be interpreted or construed as limiting the legal right or duty of intervenor, Theone Look, to fulfill her constitutional duty as a legislator, nor shall it be interpreted as an agreement, promise, inducement, or commitment to vote in any particular way on any particular matter, it being expressly understood that intervenor, Theone Look, is entirely free to act or vote in her legislative capacity however she sees fit. It goes on and explains that payments in lieu of taxes, in the event the petitioner accomplishes the buy back utilizing the FAME financing, petitioner agrees to make payments to the town of Jonesboro and Enfield in two fiscal years commencing not earlier than the 1996 fiscal year and not later than the 1999 fiscal year.

In lieu of taxes and in addition to any real or personal property taxes assessed by said towns on the property of the petitioner. That refers to the

property they already own in those towns based upon the following formula. The first fiscal year 80 percent of the gross decrease in real and personal property taxes assessed against the Babcock Ultra-Power Plants in each town including land, buildings, and personal property as compared with the 1995 fiscal year. Second fiscal year, 60 percent of the gross decrease in real and personal property taxes assessed against the Babcock Ultra-Power Plants in each town including land, buildings and personal property as compared with the 1995 fiscal year.

Each municipality may select in writing, no later than six months after the commencement of the fiscal year, the fiscal year in which the tax payments shall begin for that town, but once such selection is made, it may not be varied or altered without the written permission of the petitioner. Then it goes on, that is the meat of this particular agreement. For those of you who were not here earlier, the Public Utilities Commission only recommended that the company pay the towns some payments in lieu of taxes. It was not a condition of them receiving the certificate.

This was a way for the towns to get some compensation for those two years that they would be out of the loop of paying higher taxes on the people of the towns. My town has no other industry, whatsoever. The population are elderly people with many, many welfare people, no industry. It does disturb me that I am sort of, as well as my town, accused of taking a round about way. We had an attorney. I felt that this was being handled in a proper way and I still feel it was. I don't think it was anything that was done to bypass any authority of the Legislature.

The Legislature's action is solely concerning the right to extend this amount of money to be used for the FAME process. What has happened in the past is gone by. We will survive hopefully and I hope that perhaps what has happened here with these two towns will serve as an example and maybe nothing again will happen that will damage any more of our municipalities in the state of Maine and all actions taken will serve to be of a positive nature. Thank you, Mr. Speaker.

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

Representative ADAMS: Thank you, Mr. Speaker, Men and Women of the House: I too, on the Utilities Committee, voted against the bill which is now before us. My comments, right now, are to more explain to you why I cast my vote the way I did, rather than necessarily to try to get you to vote likewise. But, I hope that you would listen because in both cases I found it necessary to vote against it for two large reasons. That, of the law of unintended consequences, and secondly the way we should be doing public policy when we're spending large sums of public money.

When you step in in an emergency situation and try to undo long standing policy to answer certain needs at the moment it is always difficult, its like trying to roll a ball of yarn backwards and expecting that you're going to get a straight line every time. You can not. It concerned me very much, a year ago, when we first had the first rate stabilization act, that as the Director of the State Planning Office, himself, put it, we were in essence, in the position of having a gun put to our heads, either to do it

right, or to do it first, or to have terrible consequences if we didn't do anything at all.

Some of those consequences were that though the Utilities Committee did the very best they could with the arguments set before us, no one among us expected what actually happened later. Number one, that in dealing with NUGs, non utility generators, whether or not you were here or at home you heard about it on the news I am sure. We had anticipated, I believe, as a committee there would be a lot of little buydowns out of this large pot of money that the Finance Authority of Maine would have, probably small hydro dams here and there. None of us expected there would be one huge buyout using two-thirds of all the money in the pot. That is exactly what happened.

None of us anticipated that a huge loan would be taken out without the borrowing utility posting any collateral, whatsoever. That is exactly what was attempted. No one meant really, that jobs were going to be lost using public money to support, in essence, that loss. That is exactly what happened. Using public supported money to lose individual jobs in scattered towns across the state was nothing any of us ever wished to see, but that is the reality of the real world of competition and that's just what we're going to have to bite the bullet about. You should know what bullet you're biting, when this deal was presented to us regarding Bangor Hydro proposal, it would seem that you add all of it up together, probably about \$29 or \$30 dollars a year would be saved for each individual rate payer of Bangor Hydro.

They are not going to receive that money in the form of a rebate on their present bill. They may receive that money in the form of rate increases that will not happen on future bills. Okay, that may also be all right as long as you know what you're talking about. However, you've got a balance what is gained, if that is a gain, against what is lost, which is what we needed to hear about. It very much surprised me, we didn't hear a single word of opposition from either of the two small communities Jonesboro and Enfield who depend upon the two woodburning plants in question, for in one case two-thirds and the other case 37 percent of their total tax base. There are no other industries in either of those towns.

Largely, it has been told, their population is elderly, it would seem to me that what happens to those plants would be of absolute concern to the people of those towns, as it should be to us. When the Ellsworth Chamber of Commerce came before us to declare that indeed they were in favor of this deal, we asked, I asked, what their opinion might have been if they were the head of the Chamber of Commerce in Jonesboro or Enfield, admittedly the gentleman was very honest, he said, "Good deal for me in Ellsworth, but if I was in Jonesboro or Enfield, I'd be furious. I'd be fighting like heck."

Rather surprised me that we never heard a word from either of those towns. Well, in fact, no one did speak in opposition because the deal that the opposition had to make in order, simply to survive, meant that they also had to be silent. That is only if those towns never went to the Public Utilities Commission, did not object publicly to the legislation before us and never went to court about it would they ever receive any future assistance in paying the property taxes lost in those two towns.

Now the deal struck to preserve your town, if you were a selectmen in either one of them may have been a good deal, it may be exactly what I would have done if I would have been a selectmen there, but at the same time, we the legislature, who is going to put up public money from all across the State to make it happen, should know exactly what we are doing. No one ever told us about that deal during the public hearings. No one ever told about those deals during the work sessions. No one from either side ever brought us any of the documents in question.

Bangor Hydro certainly did not, it was not in their interest. The Selectmen of those towns could not because they had signed off. It concerns me very much, that if public money is to be posted in a public process to do this sort of thing, that we have to know about it. We knew about it only because in the last ten minutes of the last work session of the last work day that we discussed the bill a couple of us happened to ask the proper questions and there were no copies of these documents available to us at any time including that moment, in the public hearing or the public work session process.

Now that is wrong because the jobs in Enfield and Jonesboro are real jobs, good paying jobs, engineering jobs, in some cases, that will cease to exist when the plants are shut. The plants themselves are built such that they may be unbolted and carted away. There have been two offers already from southern states to physically disassemble the plants and take them away. Those are plants and those are jobs that shall no longer exist, possibly in the future of those two towns. These are things we must discuss in the context of the larger public policy because these are real people, real jobs, real consequences.

You can't discuss them if you don't know about them, and if you don't know about them because the deal is, no one can talk about them. That I argue is not the way to make public policy and not the way to pledge public dollars and not a dilemma that I think is fair to dump selectmen of two small towns into every time this could possibly come up again in the future. It reinforces the policy that in order to save yourself, you have to nail your neighbor and you do it in silence. That is not worthy of a great utility, it is not what should be done to small towns, and it is not what you and I should be put in the dilemma as having to vote on without knowledge about it.

Having said that I want to say to my colleagues of the Utilities Committee, that we do the best we can, and you all did the best you could. I have not criticism of individual actions, but my own individual conscience tells me if this doesn't pass my straight face test that in my conscience I had to vote against it and put on record these comments so that it will not ever be done again to any small towns who find themselves in a similar situation in the future.

Given that, I repeat again my attempt is not so much to convince you to vote my way, as to explain the way that I did vote, in order that should the occasion come that you find yourself in the same position, you can at least point to these words and say, "We must never let this happen again, using public money to make public policy that hurts small people in ways that were not public all through the process." Thank you.

THE SPEAKER PRO TEM: The Chair recognizes the Representative from Windham, Representative KONTOS.

Representative KONTOS: Mr. Speaker, Men and Women of the House: For the record, the testimony of the President of Bangor Hydro before the committee, did in fact indicate to the committee that the company had been negotiating with the towns. So contrary to what the good Representative from Portland just suggested, we did have knowledge of that during the public hearing on this bill and I quote, "We have therefore entered into an agreement with the towns to provide payments in lieu of taxes for the first two years in event of such an evaluation, if the buyback takes place with FAME financing. Of course this cuts into the savings by some amount, but we expect it's worth doing so in order to prevent delays in accomplishing this transaction."

When we work this bill after we were made aware in a public hearing that a transaction may be taking place between the towns, we were told that that particular agreement which you have heard quoting into the record and cited again by other remarks was entered into drafted by the legal counsel for the towns. Willing parties engaged in this transaction. In the judgment of the majority of the members of this committee and I think it's a rather captivating issue to be investigating, but I would suggest to you as we approach a vote on this bill that that is in no way a reflection of the vote you are taking.

It's a matter that occurs as a sidebar issue and I would hate to have you lose your focus on the bill before you, which is in fact, to extend the period of time for this particular electric rate stabilization program and to increase the amount of money that the Finance Authority of Maine can issue in bonds to help finance buy backs of contracts. We happen to have a very specific case we can talk about, but the issue before this body is, in fact, one of public policy. It seems to me the other piece of information that all of you need to know in the event these situations come up in the future is this.

Establishing conditions during a PUC decision between parties in that decision, in this case, companies and intervenor and the Commission, establishing conditions under which people proceed is not unusual. I invited the Public Advocate over here yesterday to talk with the Representative from Jonesboro to make sure that she understood, as I needed to understand, that the kinds of conditions established for her in this case and other intervenors in this case were not extraordinary. They are not extraordinary. This is a negotiating tool that is frequently used at the PUC in order to give interested parties some other negotiating space.

What the towns got out of that was a really good deal, in the judgment of many of you who have other towns where job loss has occurred or businesses have left and nobody came forward to try to overcome the loss of taxes. What they had to give in return for that was a promise not to appeal the PUC decision. That's where negotiation takes place. That happened in the regulatory body, with attorneys representing all the interested parties, that is not part of what you need to decide in order to support the majority "Ought to Pass" Report.

I urge you to take that action. Thank you, Mr. Speaker.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

The Speaker: The Chair recognizes the Representative from Mexico, Representative LUTHER.

Representative LUTHER: Thank you, Mr. Speaker, Ladies and Gentlemen of the House: I wish to clarify my comments that I originally made on the floor. I wanted to make clear that I meant no criticism whatsoever to the good Representative from Jonesboro, Representative Look, of whom I have always had the greatest respect. Indeed, I'm sure what she did was for the best interest of her constituents and she did what I, or any of you would do under the same circumstances. It is the circumstances under which she found herself which I have a great deal of objection and it is one of the reasons why I am not going to be voting for this bill. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative GOOLEY.

Representative GOOLEY: Thank you, Mr. Speaker, Men and Women of the House: I rise today to discuss bio-mass plants and I think a little additional information needs to be given here. Representative Hichborn brought up the total picture, what's the total picture in bio-mass effort that has gone on over the last few years, probably 20 years now, and Representative Kontos said we shouldn't lose focus and we have unintended consequences from what's happened over the last twenty years. Now back in 1973 is when the energy crisis began, and that was the beginning of our problems.

S.D. Warren was the first plant to put in a bio-mass plant and it was a real thriving operation, and it still is. We've had bio-mass plants all over the state of Maine and bio-mass is only one form of energy. Now bio-mass is a renewable resource, and I think that is important for us to keep in mind in the state of Maine, that Maine has been blessed, is blessed, with renewable resources and that is very important to us. Now the total power of production from bio-mass over the last 15 years or so has been, my understanding, is about 7 percent of the total power production or power needs here in the state of Maine. So that's how important it is.

Now our energy needs are supplied from different areas, including solar, water, air, oil, coal, nuclear and bio-mass and at some point in time Maine Yankee is going to close down and there's going to be some big changes here in the state of Maine. It's going to effect CMP, Bangor Hydro and something different is going to have to take place. Now one of my points is, when is the next energy crisis coming. I believe we are importing more than half of our oil from abroad at the present time and so I'm wondering when the next energy crisis is going to come. I think we are going to have one, but maybe not for the next 10 or 20 years.

I guess my point is that we have used these bio-mass plants, they have been real productive over the last few years, they've given us energy and that energy comes from natural resources and I think that we are going to need to have bio-mass use again in the future. Of course we have cheap power right now and I'd just like to mention here that what if Maine had approved CMP's Hydro Quebec deal. This came from the Lewiston Sun, April 8th and I'd just like to say about what Vermont did. Now that there is an energy glut throughout New England, Vermont Utilities have been forced to sell power back to Hydro Quebec at a loss.

The Burlington Free Press said the contract may have been Vermont's worst business decision in the decade. So apparently, we did make a good business decision a few years back in this regard. I just wanted to give this subject a little more perspective and say that these bio-mass plants that are having the problems right now, they could come back to be a real service to us in the future. Thank you.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative CLARK.

Representative CLARK: Thank you very much, Mr. Speaker, Men and Women of the House: I really wasn't going to speak about this as one of the ten items we used, but I feel obligated to say a few words as being a former Chair of the committee. Back when we originally had the bill, I mentioned in the caucus, was we thought we passed a bill that was going to help everyone. I wasn't home two months after we adjourned from the session, I was traveling to Stacyville, Houlton, Fort Fairfield, all over the state of Maine, because a lot of these towns were afraid these contracts were to buy them out, shut these plants down and move them out of the state, move them out of the town and lay off people.

Back in the hearing when we had the bill, I asked the PUC, I asked FAME, I asked the Utilities and I told them, the intent of the committee at that time was not to buyout, shutdown or closedown. It was to buydown the contracts. I wasn't home two months later I was traveling all over the state trying to show the town fathers that was not our intention. Here we are today. I must commend Representative Look and the work that she put forward to try to save her little town.

I worked very close with her in the last couple of months trying to get her something she could work with. But what is going to happen to these other 20 contracts, are they going to have the same deal as she had for her town. Are we going to make these small towns worse off than they are today? These small towns need something to live on. Yes, they are good paying jobs. Yes, they bring a lot of revenue into the area. PUC forced these contracts, forced these facilities onto us, now they are shutting them down by buyout contracts, putting people out of work.

This is one way the state wants to do business. When was the last time, you as a rate payor saw a rate reduction in your light bill. Go home and tell that to your constituents. Thank you.

The SPEAKER: The Chair recognizes the Representative from Paris, Representative BIRNEY.

Representative BIRNEY: Thank you, Mr. Speaker and Distinguished Members of this House: One of the items I have heard mentioned here today was to prevent future increases, it was an emergency situation. I think the legislature faced that over a decade ago when the NUG plants were being built and the utilities were forced to purchase power from them. Did it save future increases, I think not. I've seen nothing but increases in my light bill and I hear it all the time from my constituents. Another thing that was mentioned here is this is the best alternative we have, well folks it's not. We have got to deregulate.

We have got to set a sunset for the PUC regulation of these utilities. What we are doing is, we are exchanging right now bond issues, moral obligation bond, for not having to deregulate. Competition is the best way to lower prices. The utilities have not

been allowed to compete. So we're passing the buck again, shirking off our responsibility of not deregulating and we can do that. As a matter of fact, in the process it was mentioned that there were bills that they are looking at to do that very thing. I do not think that we need this at this time. I know for sure as a pro-business person in this legislature, and in my county and in my town, I do not think that this is a pro-business bill.

When you look at the total bonding for small business through the same authority, it's \$114,000,000 dollars at present. We're looking at \$220,000,000 dollars for these moral obligation bonds to buy out these NUG plants. That's about what would happen if we took that same money and put toward small business in this state. Small business is over 80 percent of the business in this state, and the good Representative Clark from Millinocket mentioned, what about the other NUG plants? I mean, is this the beginning of an enormous moral obligation of this state to solve a problem that we probably will not solve. We did not solve it a decade ago. We're not going to solve it now. Thank you.

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

Representative KILKELLY: Thank you, Mr. Speaker, Men and Women of the House: I'm making a couple of assumptions in what I have to say, and if I'm incorrect I would request correction on it. It just seems to me that if this deal, meaning the purchase of the contract is going to happen anyway, than we really have two choices today. One, is we can pass the bill and provide some relief for the impacted towns and some potential rate relief for the rate payers.

Or second, we can defeat the bill, and provide additional interest income for probably some out of state banks. Which isn't really what I'd like to see us doing. I think the other part, in terms of discussing the agreement, that's important, many times discussion on this floor and the legislative process provides an educational opportunity for future situations. I would hope that the folks that were involved in negotiating this arrangement, which I don't see as a bad arrangement, but maybe question that it should have been more in the light, would take advice of our suggestions that maybe those future things should be brought forward to the legislative committee that needs to have the information to go forward and make their decisions. That should not mean that we would jeopardize a situation in these two small towns which may, in fact, impact them very, very significantly. 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: I think that we should seize upon this opportunity and allow these power plants to generate cheaper power. On the other hand, if we don't make it possible so that they can sell their power, they're going to be gone. A power plant two years ago was bought out. The present owner of that, I checked with day before yesterday, would love to have a contract where he could sell that power for five cents a kilowatt hour. That's seven cents, at least

seven cents a kilowatt hour cheaper than we're paying as rate payers for that power.

It would seem to me if the PUC had a long range vision of keeping these power plants viable that they could come up with a system where their power would be able to be sold to keep these plants running, to keep the jobs in place and still give the Bangor Hydro and the other power companies the ability to buy them out and to reduce the cost to their rate payers. Thanks.

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

Representative ADAMS: Thank you, Mr. Speaker, Men and Women of the House: I would say in listening, two of our previous speakers have hit the nail right on the head. Our good Chair of the Utilities Committee, and she is a good Chair, trying always to keep all things fair and on an even keel, Representative Kontos, the Representative from Windham, has indeed quoted to you from the testimony of the President of the Bangor Hydro Electric Company, in which he makes mention of some sidebar agreement was being worked out with the two towns in question.

That is the only mention we ever heard of it. It is the only explanation we ever had of it. That is the only sentence presented in the work session or in the hearing that referred to it. If you find it difficult to be following the complexity of arguments about Non Utility Generators here on the floor, without the information in front of you, you may understand my dilemma upon the committee where there was certain information referred to, but never revealed, not even present. No copy of it was available to be handed to us. Conducted in such a way that none of the people intimately concerned with it felt free to tell us about it.

For that reason, the second speaker whose words I would say we should heed in the future record, would be, Representative Kilkelly who is a selectperson in the town of Wiscasset. Such a deal as struck by those towns in order to save themselves, may have indeed been the best deal that they could have struck. You and I do not know, because you don't have a copy in front of you at all and I didn't then when I had to vote on it. I have one here now and now we have to vote.

If in the future, further buydowns or in the last eventuality buyouts have to be done of these hydro-dams, woodburners, and other such facilities that are in your communities, employing your neighbors, and possibly members of your family, in the town where you've got to pay taxes. I should hope that whatever side agreements are struck, whatever deals are put forward, whatever we have to decide as a legislature, is fully put in front of the appropriate people on committees where that decision has to be made, before it gets to this point. It is your tax dollars, possibly your job, and possibly indeed your town. Without elaboration I will tell you that the Central Maine Power Company which means to do the right thing, I am sure, by dealing with NUGs has over 80 of them scattered around its service territory.

Is there one in your town? If you do not know the answer to that question right now, you should find out. If you wish to know what may happen to it in the future with the remaining money that will be in the pot, should this bill pass, you best stay on top of it and should any deal be struck regarding it, you

should know about it fully and make sure the committees that are in charge of that know about it fully before it is your tax dollars, your town, and your job that we have to be debating about in the last ditch. Thank you, Mr. Speaker.

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

ROLL CALL NO. 86

YEA - Ahearne, Aikman, Ault, Bailey, Barth, Berry, Bigl, Bouffard, Cameron, Campbell, Chase, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Donnelly, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Heeschen, Heino, Hichborn, Jacques, Johnson, Jones, S.; Joseph, Joyce, Joyner, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, Lane, Layton, Lemont, Libby JD; Lindahl, Look, Lumbr, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, McElroy, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, Paul, Peavey, Pendleton, Perkins, Plowman, Poirier, Poulin, Povich, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rosebush, Rotondi, Rowe, Savage, Saxl, J.; Saxl, M.; Simoneau, Sirois, Spear, Stedman, Stevens, Stone, Strout, Taylor, Thompson, True, Tufts, Tuttle, Tyler, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor, Yackobitz, The Speaker.

NAY - Adams, Benedikt, Birney, Brennan, Buck, Bunker, Carleton, Chartrand, Chick, Chizmar, Clark, Green, Hatch, Jones, K.; Joy, Keane, LaFontaine, Lemaire, Lemke, Lovett, Luther, Meres, Murphy, Nass, Nickerson, O'Neal, Pinkham, Richardson, Samson, Shiah, Townsend, Treat, Tripp, Volenik, Watson.

ABSENT - Dexter, DiPietro, Libby JL; Ott, Pouliot, Truman, Vigue.

Yes, 109; No, 35; Absent, 7; Excused, 0.

109 having voted in the affirmative and 35 voted in the negative, with 7 being absent, the "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-229) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended and sent up for concurrence.

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

On motion of Representative JACQUES of Waterville, the House recessed until 4:30 p.m.

(After Recess)

The House was called to Order by the Speaker.

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

SENATE PAPERS

Bill "An Act to Create the Sunshine in Litigation Act" (S.P. 558) (L.D. 1517)

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

Was referred to the Committee on Judiciary in concurrence.

Bill "An Act to Amend the Maine State Retirement System with Respect to the Consolidated Plan for Participating Local Districts" (EMERGENCY) (S.P. 559) (L.D. 1518)

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

Was referred to the Committee on Labor in concurrence.

Refer to the Committee on Agriculture, Conservation and Forestry

Report of the Committee on Inland Fisheries and Wildlife on Bill "An Act to Regulate Hybrid Wolves" (S.P. 360) (L.D. 986) reporting that it be referred to the Committee on Agriculture, Conservation and Forestry.

Came from the Senate with the Report read and accepted and the Bill referred to the Committee on Agriculture, Conservation and Forestry.

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

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

House Divided Report - Committee on Criminal Justice - (9) Members "Ought Not to Pass" - (4) Members "Ought to Pass" as amended by Committee Amendment "B" (H-223) on Bill "An Act to Establish a Presumption That the Owner of a Motor Vehicle Is the Driver If That Vehicle Is Involved in a High-speed Chase" (H.P. 266) (L.D. 368) which was tabled by Representative CLARK of Millinocket pending his motion to accept the Majority "Ought Not to Pass" Report.

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

The Chair ordered a division.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative CLARK.

Representative CLARK: Thank you very much, Mr. Speaker, Men and Women of the House: If you remember awhile ago we had this bill up here, we had a lengthy debate, it went on for some time, the vote itself that finally came out that evening was 77 to 63 "Ought Not to Pass". We had a number of votes. We finally decided to refer the bill back to the committee, we did that. We took a lot of time to try to work this bill out. As a matter of fact, when a report came up it was a Minority "Ought Not to Pass". We sent the bill back down to the committee, now it's a Majority "Ought Not to Pass", we've done everything possible to make this a working bill, we just can't do it. I hope when you vote you vote with us majority "Ought Not to Pass". Thank you.

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

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

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

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative CLARK.

Representative CLARK: Thank you, very much, Mr. Speaker, Men and Women of the House: One more time, we've had this bill in the House for a number of times, we had a number of votes on it back here a month ago. One of the votes that came out of the committee was 77 to 63 of "Ought Not to Pass". We had a number of votes after that. We elected to sent it back to committee. We had it in Committee, we worked it two or three times. We tried to make this a workable bill and it's not going to be a workable bill.

When it first came upstairs, it was with a minority, of "Ought Not to Pass", now its with a majority of "Ought Not to Pass". The liability still stands out there with that law enforcement. If I'm a law enforcement officer and I'm chasing this individual down the street, get his number and I exceed that after I get his number and something happens to me as a law enforcement officer, happens to the person I'm chasing, happens to someone innocent beside the street, whose going to be liable.

If we all thought this was a workable bill, I think this would be upstairs today with Majority. Look at the people who signed it "Ought Not to Pass". I'll tell you one thing, I hope when you vote this evening, you'll vote the way the rest of us did and kill this once and for all. Thank you.

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

ROLL CALL NO. 87

YEA - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gooley, Green, Hatch, Heeschen, Jacques, Johnson, Jones, K.; Joseph, Kerr, Kilkelly, Kneeland, Kontos, LaFountain, Layton, Lemaire, Lemke, Libby JL; Look, Lovett, Luther, Madore, Martin, Mayo, McAlevy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Paul, Peavey, Perkins, Pinkham, Pouliot, Ricker, Rosebush, Rowe, Samson, Saxl, M.; Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, Winsor, Yackobitz, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Birney, Buck, Bunker, Cameron, Campbell, Clukey, Cross, Damren, Donnelly, Gerry, Guerrette, Hartnett, Hichborn, Jones, S.; Joy, Joyce, Joyner, Lane, Libby JD; Lindahl, Lumbra, Marvin, McElroy, Nass, Ott, Pendleton, Plowman, Poirier, Povich, Reed, G.; Reed, W.; Rice, Richardson, Robichaud, Savage, Simoneau, Spear, Stedman, Taylor, True, Tufts, Underwood, Waterhouse, Whitcomb, Winglass.

ABSENT - Bigl, Carleton, Dexter, Dunn, Gould, Greenlaw, Heino, Keane, Labrecque, Lemont, Marshall,

Nickerson, Poulin, Rotondi, Saxl, J.; Stone, Strout, Truman, Winn.

Yes, 83; No, 49; Absent, 19; Excused, 0.

83 having voted in the affirmative and 49 voted in the negative, with 19 being absent, the Majority **"Ought Not to Pass"** Report was accepted and sent up for concurrence.

House Divided Report - Committee on Criminal Justice - (12) Members **"Ought Not to Pass"** - (1) Member **"Ought to Pass"** as amended by Committee Amendment "A" (H-226) on Bill "An Act to Prohibit the Use of State Money and Personnel to Conduct Warrantless Searches by Helicopters" (H.P. 555) (L.D. 756) which was tabled by Representative CLARK of Millinocket pending his motion to accept the Majority **"Ought Not to Pass"** Report.

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

Representative JOHNSON: Thank you, Mr. Speaker, Men and Women of the House: I ask you to vote against the "Ought Not to Pass". I would like to speak to the issue and ask your support for the Minority Report, the "Ought to Pass" as amended by the Committee Amendment. The bill as amended prohibits the DEA, the Maine National Guard and all other law enforcement agencies from using helicopters without a search warrant and probable cause.

Without a search warrant and probable cause to locate marijuana, specifically now, to locate marijuana believe being grown on certain properties. The biggest problem with this has been that searches have been conducted with low flights that have resulted in dead livestock, traumatized children, adults and pets. I believe the issue is one of privacy and sanctity of your home. If I may use an illustration that, talking about one of these flights, Ronald Keene and Karen Keene and their daughter used to live in a rented house in the woods along the Web River in Cartage, Franklin County.

On the afternoon of September 17, 1992, the Keene's were returning home in their truck when they heard the sound of a helicopter as they came up the driveway. Ronald Keene has no memory of the incident which allegedly traumatized him because of Vietnam experiences. The helicopter appeared to Karen Keene to be at or just below treetop level as she viewed it through a gap between the left side of the house and a tree. Karen had difficulties estimating the distances, but days later discovered a limb from a pine tree near the house obviously the helicopter was low to move the trees and break off limbs.

I'm only asking that you consider this bill in terms of the rights of citizens to have their homes only searched with a warrant even from a helicopter. Thank you.

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

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative PERKINS.

Representative PERKINS: Thank you, Mr. Speaker, Men and Women of the House: It seems to me that the key word is warrant, warrantless. It isn't so much the animals being traumatized and so forth. It's just hard for me to understand. I'd like to hear the other side of the argument here for the majority, but

all we're asking for is a warrant and under the fourth amendment it's pretty clear.

I moved a greenhouse from the town dump, which is near our property, down into a field on my land. I had it up at the dump experimenting. I moved it down with a front end loader, set it there in the field, about three days later a helicopter came over and I believe he was under 500 feet. I spent three years in a helicopter unit in the Navy, and I'm pretty sure he was below that, as a citizen you don't have any real way of proving they were that height.

I wouldn't mind if we established a height below which they couldn't come and they had to have logging altimeters that maybe you could go back and verify, but it seems to me we are just asking for a warrant here and I would urge you to vote to pass this prohibition.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McALEVEY.

Representative McALEVEY: Thank you, Mr. Speaker, Ladies and Gentlemen of the House: In regards to the warrant, one of the issues that we had during testimony was the intrusive nature of these helicopters. I have to give you a disclaimer first, that I flew one of these helicopters for three years as a special agent with BIDE, so I have a predetermined bias towards this, but I am going to try to be as centerous on this as possible. I think using helicopters to irradiate marijuana is a lot less intrusive than having someone sitting in the bushes across the street from your house for two or three weeks, if they have probable cause.

Now the system, the way it works, is you're suppose to have a minimum height requirement. Unfortunately, there have been documented cases that has been violated. All and all, the last time the system was in place, DEA or Maine DEA as it is called now, took eight tons of marijuana out of the streets of Maine. That's about \$3,500,000 dollars worth of marijuana.

Now if you have an issue with marijuana, you should be dealing with the marijuana issue separately, rather than trying to tie the hands of law enforcement. The telling thing for me during the testimony and just because I may be a former police officer, doesn't mean I am constantly pro law enforcement. I have a jaded point of view toward law enforcement now in many respects having been on both sides, not both sides of the law, but being a civilian and a uninformed officer. When we heard the testimony, we heard of some very terrible things that happened. I feel bad that these things happened. There is nothing we can do to take care of that. We can't right a wrong.

When we got all done these people who testified to us turned around and handed out marijuana literature and marijuana seeds. I tend to think that knocked down their credibility in my eyes. The fact that some of them may or may not have been stoned when they testified, also in my estimation knocked down the credibility. If it is a marijuana issue, let's deal with marijuana laws. This is a viable program that works. As far as the rights and dealing with a search warrant, I am the first person to stand up and say you have a right of privacy in your home and no one should violate that.

Unless things change, the federal case law as it stands now says, you don't need a search warrant to look in someone's home from over 500 feet or 1000

feet and BIDE uses the level of 1000 feet. I hope I have been able to address your question about the warrant issue. I will be the first person to stand up and fight for laws of privacy and the right of the property owner to be private and secure in their home and in their papers. Thank you.

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

Representative JOHNSON: Mr. Speaker, Ladies and Gentlemen of the House: Again, you and I agree, there should be a warrant. You and I agree there should be a warrant and that is all the bill is asking, that there be a warrant for the right of that helicopter to go over a certain property. Thank you.

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

Representative BUNKER: Mr. Speaker, Men and Women of the House: I understand the problems and concerns. The way the bill is written it is kind of academic. The bill is indicating that it prohibits warrantless searches. Under the law, flying at 500 feet is not against the law. It doesn't require a warrant, so the bill has no effect in that tone. The other part of the bill addresses money, we cannot expend the state money to do this.

The state over flights that are done in the summer time with BIDE's assistance is done with National Guard helicopters on flight time that is required to be booked and flown by each qualified instructor, flight attendants and pilots. These are all flights that are mandatory to fly to stay certified. These flights are not expending any state money. If you look at the bulk of the bill, the technical parts of the bill, please vote against it, because it doesn't change how we are doing business. Thank you.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House: I think the good Representative from South Portland has got it a little backwards. You do not need a search warrant to establish probable cause. You need probable cause to get a search warrant. The law establishes the fact police officers can make warrantless observations into what they refer to as the curtilage, which is private property, which is Constitutionally protected.

From places of public observation they do not need a search warrant to look into that curtilage. The Supreme Court has found the fact that the helicopter is not violating that law, because it is not in the curtilage. The Supreme Court has upheld the fact that a helicopter observes from 1000 feet and can come down to within 400 feet to make a closer observation when they think they see something that could establish probable cause. After they have done that, probable cause has been established and they get a search warrant and then they go into the curtilage. The Supreme Court has upheld all these observations. We do not need a search warrant to establish probable cause. Thank you.

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

Representative HEESCH: Mr. Speaker, Men and Women of the House: I think privacy is a little bit like water. You don't miss it until it is gone. It is a rather elusive concept. I think we do seem to

be moving toward the surveillance society where we are keeping track of everybody. I am afraid in the aftermath of what happened in Oklahoma, we may be moving even more in that direction. I think we have always got a reasonable appearing reason to intrude in our privacy. I think it is something we should think about very carefully before we go ahead and do this. There is always a laudable purpose and people say if you are not guilty, why worry.

I think the message of the helicopter surveillance is that if you live in the country, you are automatically a suspect. It has been stated here several times that the Supreme Court has said that flights from a certain height are not illegal and they don't impose an unrealistic intrusion into your expectation of privacy. The case most quoted and most cited was one in Florida. I guess I would say that probably someone living in Florida between major airports doesn't have quite the expectation of privacy that we in rural Maine have.

I think a lot of people live in rural Maine because they expect privacy. I would like to correct what I think may be an inadvertent implication by the good Representative from Waterboro that there were people who testified about a terrible incident happening and then turned around and passed out marijuana seeds. Actually two of my constituents did testify about an incident at their home in Carthage. It was not the people that the Representative from South Portland read a letter from, but someone else in that small town. The helicopter spent extensive time at tree top level traumatizing hound dogs, grand children and family. I believe it killed a steer through trauma.

I was there within two hours of the incident and observed these people and their animals. These people did not pass out any seeds, in fact, my constituent testified that a couple years previously he had turned in to the police information about a patch of marijuana that was growing under a powerline. I think his concern, as is many people's concern is that the state of denial that the law enforcement community sometimes finds itself in, in these situations where, technically, they are not supposed to go below the 500 foot level, but they do.

It is very difficult for the ordinary citizen to prove this, if not impossible. There are inadequate or no markings on the helicopters. You don't think during the time in which you are in panic or being traumatized to look for them necessarily nor do you think to bring a camera with you. I think that the personnel involved draw closer together in order to deny that anything happened. I don't believe that we would be having the concern if they actually followed the guidelines that they are supposed to. I don't think they will consistently do that and that is why I think it is important to ask for them to get a warrant.

It has been described that it is not illegal to do this, you can go look and then get probable cause and then come back get your warrant and go in and get the stuff. I equate that to the ability of the police to take a casual stroll through your house if your door is open, not opening any drawers, cabinets, doors or anything. Just looking and then going back and getting a warrant. I think that is about what it is like. I believe rather than going to a surveillance society, we should take steps not to make everybody equally a suspect and not to make everybody undergo this kind of thing in order to catch a few.

I also believe to some extent law enforcement is getting a black eye because of these incidents, because of the drag net approach and I believe it does polarize the issue. I think there are better ways of approaching this problem. I urge you to vote against the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Jones.

Representative JONES: Mr. Speaker, Ladies and Gentlemen of the House: I rise today in support of the "Ought Not to Pass". My reason for doing that is that a constituent of mine called me a few days ago and this constituent is also a pilot for helicopters in the Air National Guard. He has done a great deal of this type of surveillance. He said it is most effective and I wish to point in this L.D. that refers to the use of state money.

He informed me that the Air Guard, they have and made it known that they have 300 hours that they would like to use in the state of Maine for this purpose. They have state police and game wardens on board with them who are already on the job. I fail to see where there is going to be any new money involved. He also said that the state of New Hampshire and Wyoming is standing in line anxious to use this money if we decide we do not want to use it here in Maine. I urge you to vote in favor of the Majority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative GOOLEY: Mr. Speaker, Men and Women of the House: I would just like to make one point that I don't think has been mentioned here this afternoon. In 1993, the last year of the searches by helicopter there was something like 13,000 plants that were found. In 1994, the first year that we didn't have the over flight, the reduction was 50 percent or about 6,500 plants found. These over flights are real successful. I think it is a real important element for this program of keeping marijuana out of the state of Maine. Thank you.

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

Representative PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: The only thing more frightening than helicopters flying around assuming you are guilty of something just because you put out a green house is the thought that federal money is going into this as we just learned from Representative Jones. I strongly urge you to vote against the pending motion.

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

Representative MERES: Mr. Speaker, Ladies and Gentlemen of the House: I live in a district that is rural. I don't personally know anyone who grows marijuana. I am not speaking for them. During my campaign, I was approached by people who were privileged enough to have helicopters hover over their homes. I personally have had them in my neighborhood. One of the things I can tell you if you are a person like I am who has animals and children around all the time, they are scary, because they are loud. If you have ever been in a position to have one hover over you it is a very disheartening thing, because it just makes chaos no matter where you are.

I don't have any problem with law enforcement doing their jobs and protecting us from things they

should be, but there are always innocent people who are the victims of these things if they are not done properly. I would like to tell you that it is family that I am concerned about with children and people who have animals, because animals are a big investment to people in rural areas. It is a part of their livelihood and heritage. These things happen to people. When you talk about animals who go crazy and children that have bad dreams, these things happen and I think we should be extremely sensitive to this, because a majority of the people that we represent are innocent people. These helicopters don't single them out. Thank you.

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

Representative FARNUM: Mr. Speaker, Men and Women of the House: We spend thousands and thousands of dollars on DARE programs trying to teach youth not to smoke and not to take drugs. Here we are trying to protect the people that grow the drugs. Thank you.

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

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: Two or three years ago we had the same issue before us and the law change does not allow indiscriminate flight. The Chief of the State Police has assured us over and over that there are no indiscriminate flights. There has to be some cause to be able to use the helicopters in the search of marijuana. There is no question that marijuana is the largest cash crop in the state. Marijuana is grown here by the tons and sells for about \$3,000 dollars a pound. If we don't give the law enforcement the helicopters as a tool for combating this, believe me this state is going to turn into a marijuana haven for all the growers in Maine and most of New England.

I urge you to vote with the Majority Report and kill this bill. Thank you.

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

Representative JOHNSON: Thank you Mr. Speaker. I think I am beginning to sound like a record that is stuck. In no way am I saying that we are going to support the grass growers of the state of Maine. All the bill is asking for is a warrant. It says nothing about stopping the flights, not one iota about stopping the flights. It is simply saying recognize that there are people down below and they may be innocent and they may be guilty. If you think they are guilty, get a warrant. Thank you.

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

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House: I still must remind the good Representative from South Portland that you don't get a search warrant to establish probable cause. You have to have probable cause to get a search warrant and these helicopter surveillance is what does that. They fly over and identify where these marijuana field are and they come down within

feet if they have to and that establishes probable cause and then they get the search warrant. 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 pending question before the House is Majority "Ought Not to Pass" Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 88

YEA - Ahearne, Aikman, Ault, Bailey, Barth, Benedikt, Birney, Bouffard, Brennan, Buck, Bunker, Cameron, Campbell, Chartrand, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, DiPietro, Donnelly, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Hichborn, Jacques, Jones, S.; Joy, Joyce, Joyner, Kerr, Kilkelly, Kneeland, Kontos, LaFountain, Lane, Layton, Lemaire, Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marvin, Mayo, McAlevey, McElroy, Mitchell EH; Murphy, Nadeau, Nass, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Pinkham, Plowman, Poirier, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rosebush, Rowe, Savage, Saxl, M.; Simoneau, Sirois, Spear, Stedman, Taylor, Thompson, Townsend, True, Tufts, Tuttle, Tyler, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor, Yackobitz.

NAY - Adams, Berry, Chase, Gerry, Green, Hatch, Heeschen, Johnson, Jones, K.; Joseph, Lemke, Luther, Martin, Meres, Perkins, Richardson, Samson, Saxl, J.; Shiah, Stevens, Treat, Tripp, Volenik, Watson.

ABSENT - Bigl, Carleton, Dexter, Dore, Dunn, Gould, Heino, Keane, Labrecque, Lemont, Libby JD; Marshall, Mitchell JE; Morrison, Rotondi, Stone, Strout, Truman, Vigue, Winn, The Speaker.

Yes, 106; No, 24; Absent, 21; Excused, 0.

106 having voted in the affirmative and 24 voted in the negative, with 21 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

Bill "An Act Concerning Municipal Rent Control" (H.P. 474) (L.D. 655) (C. "A" H-200) which was tabled by Representative JACQUES of Waterville pending passage to be engrossed.

Subsequently, the Bill was passed to be engrossed as amended and sent up for concurrence.

UNFINISHED BUSINESS

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

Bill "An Act Investing the Joint Standing Committee of the Legislature Having Jurisdiction over Taxation Matters with Exclusive Authority to Review Legislation Relating to Tax Policy" (S.P. 195) (L.D. 504) (C. "A" S-79)

- In House, Passed to be Engrossed.

TABLED - May 4, 1995 by Representative MITCHELL of Vassalboro.

PENDING - Motion of same Representative to reconsider passage to be engrossed.

On motion of Representative MITCHELL of Vassalboro, tabled pending her motion to reconsider passage to be engrossed and later today assigned.

SENATE DIVIDED REPORT -Majority (7) "Ought to Pass" as amended by Committee Amendment "A" (S-100) - Minority (6) "Ought Not to Pass" - Committee on Legal and Veterans Affairs on Bill "An Act to Ensure Integrity in Maine Government by Prohibiting Involvement of Constitutional Officers and the State Auditor in Political Action Committees" (S.P. 43) (L.D. 73)

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

TABLED - May 9, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Motion of Representative NADEAU of Saco to accept the Minority "Ought Not to Pass" Report.

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

Representative TRUE: Mr. Speaker, Colleagues of the House: I rise today to encourage you not to support the pending motion before you. During the testimony and discussions during committee deliberations, many of us were very surprised to hear that there was continued involvement with PACs by some individuals within the body of our Constitutional Officers. Therefore, it would seem prudent to pass L.D. 73 to prohibit such actions, especially because of this fact. I ask you, again, to defeat the Minority Report and go on to support the Majority "Ought to Pass" Report and Mr. Speaker, I request a roll call.

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

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: We have heard a couple of phrases more often than they really should be used. One of those phrases is this is a feel good bill that really doesn't do anything. This is one of those feel good bills that really doesn't do anything. This bill proposes to take the Constitutional Officers and take them right out of PACs. Sounds good. Is that really a problem? The Constitutional Officers that we have employed today and we all know who we are talking about.

The Constitutional Officers have already voluntarily withdrawn from that participation. Until we change the whole system of campaign financing and I might just editorialize for a second or two, which my committee is now looking at, but until we do that and this legislature approves those changes then PACs are perfectly legal. PACs are above board. Everyone knows who gave what to who and how much and where it come from and the whole works. It is all documented. Do we want out of that? Right now and probably everyone in this room is above this kind of thing, but if someone wanted to really finance someone's campaign or really try to defeat the other

guys campaign they could pour in tons of money and they wouldn't know a darn thing about it.

It can be done right now. If you happen to have access to a bunch of friends with a lot of money and they have contacts in you can string it all out. You can provide all kinds of money to any candidate without any PAC activity. That can be done right now. Do we want to somehow cloudy that up and lose all possible money trails and paper trails? Right now PACs are a legitimate way of who is paying. Do we want to take from anyone? Do we want to take that privilege of being a citizen? I don't think so. I would definitely urge you to accept the Minority "Ought Not to Pass" Report.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I agree with Representative Nadeau. Some of us thought this was taken care of and we wouldn't need a bill like this. I think some of you probably remember in the Portland Sunday Telegram on the week before the problem we thought was taken care of was not taken care of. There is another whole article written on it. It is true. We all know who we are talking about. We all know that PACs are legal, but we also know that when you draw up a PAC you are using the integrity of the state of Maine to collect money and that money is going to assure you of your job.

I won't say it is illegal, but I will certainly say it is unethical, immoral and a few other adjectives I could use. I suggest that we pass this whether we do campaign reform or whether we don't. We hope to do some, but I think this is very important that we do this to keep these people honest. I think what has happened in this state is very wrong. I urge you to support the "Ought to Pass" Report. Thank you.

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

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House: I, too, serve on the Legal and Veterans Affairs Committee and I share the concerns that Representative Murphy has. Several days ago this House debated a bill that would allow the citizens of Maine to directly elect the Attorney General. The argument we heard against that over and over again was if the Attorney General had to go out and raise large amounts of money in order to get elected. It would somehow taint the office and his ability to function in an ethical way.

I ask you what is the difference here if once those Constitutional Officers are elected they start forming PACs and they start collecting soft money. Channeling is down to candidates in the House and Senate who in turn will elect them. I see no difference at all. I do think that Representative Nadeau is right when he said it is a feel good bill. If I were a candidate for the House and one of those Constitutional Officers gave me campaign funds, I would feel good.

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

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

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

ROLL CALL NO. 89

YEA - Bouffard, Brennan, Chizmar, Daggett, Dore, Fisher, Gamache, Hatch, Jones, K.; Nadeau, O'Gara, Saxl, J.; Saxl, M.; Stevens.

NAY - Adams, Ahearne, Aikman, Ault, Bailey, Barth, Benedikt, Berry, Birney, Buck, Bunker, Cameron, Campbell, Chartrand, Chase, Chick, Clark, Cloutier, Clukey, Cross, Damren, Davidson, Desmond, DiPietro, Driscoll, Etnier, Farnum, Fitzpatrick, Gates, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Guerrette, Hartnett, Heeschen, Jacques, Johnson, Jones, S.; Joseph, Joy, Joyce, Joyner, Kerr, Kilkelly, Kneeland, Kontos, LaFountain, Lane, Layton, Lemaire, Libby JL; Lindahl, Look, Lovett, Lumbra, Luther, Madore, Martin, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Murphy, Nass, Nickerson, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Richardson, Ricker, Robichaud, Rosebush, Rowe, Samson, Savage, Shiah, Simoneau, Sirois, Spear, Stedman, Taylor, Thompson, Townsend, Treat, Tripp, True, Tufts, Tuttle, Tyler, Underwood, Vigue, Volenik, Waterhouse, Watson, Wheeler, Whitcomb, Winglass, Winsor, Yackobitz.

ABSENT - Bigl, Carleton, Dexter, Donnelly, Dunn, Heino, Hichborn, Keane, Labrecque, Lemke, Lemont, Libby JD; Marshall, Morrison, Rotondi, Stone, Strout, Truman, Winn, The Speaker.

Yes, 14; No, 117; Absent, 20; Excused, 0.

14 having voted in the affirmative and 117 voted in the negative, with 20 being absent, the Minority "Ought Not to Pass" Report was not accepted.

Subsequently, the Majority "Ought to Pass" as amended Report was accepted. The Bill was read once. Committee Amendment "A" (S-100) was read by the Clerk and adopted. The Bill was assigned for second reading Tuesday, May 16, 1995.

HOUSE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (5) "Ought to Pass" as amended by Committee Amendment "A" (H-189) - Committee on Labor on Bill "An Act to Extend the Jurisdiction of the Maine Labor Relations Board to Public Employees Who Have Been Employed Fewer Than 6 Months" (H.P. 263) (L.D. 365)

TABLED - May 9, 1995 (Till Later Today) by Representative HATCH of Skowhegan.

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

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: When our Collective Bargaining Laws were established, it was understood that you may have some employees that you are going to hire that you needed a screening period for to determine whether or not they were going to be good employees and could be able to work into your organization and serve you in the best manner and also serve themselves in the best manner. In other words, learn how to be real good employees.

This bill would change the Collective Bargaining Laws so that we would no longer have that particular time frame in which we could release these employees

without notice and without problem. We heard in committee that in some of the testimony given that there may have been a few problems that arose who might have been paid a different rate of pay, who may have been released unjustifiably, but that is what the six month period is for. I think that if we pass this bill we are changing Collective Bargaining Laws that have worked very, very well for all parties concerned.

I urge you to defeat the pending motion and accept the "Ought Not to Pass" motion. Mr. Speaker, I request that the vote be taken by a roll call. Thank you.

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

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

Representative CHASE: Mr. Speaker, Men and Women of the House: I do agree with the first statement of my good friend from Crystal, Representative Joy. I am sure he is surprised to hear that. In fact, there is a probationary period for public employees and it is very important. It is very important to the representatives of labor and management.

This bill does nothing to eliminate that probationary period. Let me tell you what the bill did and does and why it is before you. In our public employee laws we have an exception to the definition of public employee and that exception is anyone who has worked for fewer than six months. That means the person is not an employee. It doesn't matter if they are a member of a union, paying dues. What was presented to us is that some public employers were, in fact, paying such employees a different rate, which was not negotiated and denying those employees their vacation and sick time benefits.

The committee worked on this bill because we all on both sides, believe in probation. I speak to you as a former shop steward. The last thing I want to do is have to defend a lousy employee. We want that period, but we want that to be a probationary period. What we have done in the amendment to the bill is simply include probationary periods in the required subjects for bargaining, wages, hour, working conditions and a length of a probationary period. The reason why this gets complicated is because the period of time is six months and anyone who knows anything about state employees knows that the probationary period is six months. For teachers it is vastly different, it is years.

What we are doing is saying that an employee is, in fact, an employee from day one. They are protected, paid the same as the employee contracts to be paid and with benefits protected as it should be. Management has an absolute right and I would swear on a stack of bibles that labor would support that right to have a probationary period. This does not, as the good Representative from Crystal, Representative Joy mentioned, have anything to do with dismissing an employee in a six month period. If you have a probationary period, you can still dismiss that employee, if that employee doesn't work out. You can still fire a state employee without cause, which is ok, within the six months. For teachers if it is however many years, you can still fire a teacher, within a probationary period. If doesn't effect that at all.

This is one of those bills that is really hard to describe. Forgive me if I am not being clear, but all we have done is to maintain the probationary period, but separate that from the definition of employee. An employee is someone who is hired. Thank you.

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

Representative WINSOR: Mr. Speaker, Men and Women of the House: I am with the Majority Report which is "Ought Not to Pass". I only want to read to you the fiscal note that was attached to this bill. It says, "local units of government may incur additional costs in termination of probationary periods. Employees as a result of being subject to the requirements of the municipal public employees labor relation law."

This change, the change proposed by the minority, represents a state mandate, the person went to the Constitution of the state of Maine. Additional local costs are not expected to be significant. I don't know what that means. I think we have found our budget to be growing with a lot of insignificant things. It goes on to say, "general fund appropriations will be required to fund at least 90 percent of the additional costs unless a mandate preamble is amended to the bill and two-thirds members of each House vote to exempt this mandate from funding requirements."

Ladies and gentlemen, I just submit to you that it is not good public policy to vote for something that we don't know the cost of. 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 pending question before the House is acceptance of the Minority "Ought to Pass" as amended Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 90

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

NAY - Aikman, Ault, Bailey, Barth, Benedikt, Birney, Buck, Cameron, Campbell, Chick, Clukey, Cross, Damren, DiPietro, Donnelly, Farnum, Gieringer, Gooley, Greenlaw, Hartnett, Jones, S.; Joy, Joyce, Joyner, Kneeland, LaFountain, Lane, Layton, Libby JL; Lindahl, Look, Lovett, Lumbr, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Taylor, True, Tufts, Underwood, Vigue, Waterhouse, Whitcomb, Winglass, Winsor, Yackobitz.

ABSENT - Bigl, Carleton, Dexter, Dunn, Heino, Keane, Labrecque, Lemont, Libby JD; Marshall, Morrison, Rotondi, Stone, Strout, Thompson, Truman, Winn.

Yes, 69; No, 65; Absent, 17; Excused, 0.

69 having voted in the affirmative and 65 voted in the negative, with 17 being absent, the Minority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-189) was read by the Clerk and adopted. The Bill was assigned for second reading on Tuesday, May 16, 1995.

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-196) - Minority (4) "Ought Not to Pass" - Committee on Labor on Bill "An Act to Permit the Buyback of Retirement Time" (H.P. 567) (L.D. 768)

TABLED - May 9, 1995 (Till Later Today) by Representative HATCH of Skowhegan.

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

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

Representative HATCH: Mr. Speaker, Men and Women of the House: I thought you might like an explanation of this. This bill was brought before us and the suggestion was made and the L.D. was provided. "An Act to Permit the Buyback of Retirement Time", what this is is for appointed and elected officials. Their joining the Maine State Retirement System is optional. Some people wanted to belong or want to belong now did not join the Maine State Retirement System. The committee amended this bill to make it quite clear that if they were to join that they would have to pay the actuarial cost to join the system and that they could not buy back certain blocks of time. Some of the technical problems that were set out in this bill were answered in the amendment. There was testimony for and none in opposition. I ask that you pass the "Ought to Pass" Report as amended. Thank you.

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

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

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

The SPEAKER: The Representative may pose his question.

Representative BAILEY: Does this carry a fiscal note or is it designed similar to the State Police bill two years ago, where the entire cost is picked up by the employee?

The SPEAKER: The Representative from Township 27, Representative Bailey has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Mr. Speaker. The amendment did guarantee that the system would be made whole. The individual must pay all the actuarial costs. Thank you.

The SPEAKER: The Chair will order a division. The pending motion before the House is acceptance of the Majority "Ought to Pass" Report. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken. 99 voted in favor of the same and 21 against, subsequently, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-196) was read by the Clerk and adopted. The Bill was assigned for second reading May 16, 1995.

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

TABLED - May 9, 1995 (Till Later Today) by Representative NADEAU of Saco.

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

On motion of Representative MITCHELL of Vassalboro, tabled pending the motion of Representative NADEAU of Saco to indefinitely postpone the Bill and all accompanying papers and later today assigned.

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

TABLED - May 9, 1995 (Till Later Today) by Representative WHITCOMB of Waldo.

PENDING - Passage to be Engrossed.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Joyce.

Representative JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask for a roll call. As I stated last week, this bill requires employers that require vacation and sick leave benefits to their employees to have a written policy to that effect. About ten years ago this would have been a good bill, but the fact is now a vast majority of the companies already do this. They have been doing this without any government meddling to date so my opinion is this bill is pointless at this point in time. Thank you.

Representative JOYCE of Biddeford requested a roll call on passage to be engrossed.

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 China, Representative Chase.

Representative CHASE: Mr. Speaker, Men and Women of the House: Good employers do, in fact, do exactly what this bill requires, which is simply that sick leave and vacation benefits be provided in writing to employees, end of story. It doesn't require that there be sick leave and vacation benefits. It simply states that if there are such policies those policies be reduced to writing for employees. All employees are treated the same and employees understand what they are getting into when they take a job. Good employers do that. Obviously we would not be concerned with the problem if every employer in the state of Maine were that good employer. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is passage to be

engrossed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 91

YEA - Adams, Ahearn, Bailey, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gerry, Gould, Green, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Kilkelly, Kontos, Lemaire, Lemke, Luther, Martin, Meres, Mitchell EH; Mitchell JE; Murphy, Nadeau, O'Gara, O'Neal, Paul, Poulin, Pouliot, Povich, Richardson, Ricker, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, The Speaker.

NAY - Aikman, Ault, Barth, Birney, Campbell, Chick, Clukey, Cross, Damren, Donnelly, Gates, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Jones, S.; Joseph, Joy, Joyce, Joyner, Kerr, Kneeland, LaFountain, Lane, Layton, Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marvin, Mayo, McAlevey, McElroy, Nass, Nickerson, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Rosebush, Savage, Simoneau, Spear, Stedman, Taylor, True, Tufts, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor, Yackobitz.

ABSENT - Bigl, Buck, Carleton, Dexter, Dunn, Heino, Keane, Labrecque, Lemont, Libby JD; Marshall, Morrison, Rotondi, Stone, Strout, Thompson, Truman, Winn.

Yes, 69; No, 64; Absent, 18; Excused, 0.

69 having voted in the affirmative and 64 voted in the negative, with 18 being absent, the Bill was passed to be engrossed as amended and sent up for concurrence.

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

TABLED - May 9, 1995 (Till Later Today) by Representative WHITCOMB of Waldo.

PENDING - Passage to be Engrossed.

Representative JOYCE of Biddeford 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: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: I hope you don't go along with the indefinite postponement. This is just a simple little bill that I had in last session. Due to the lateness, it was carried over to this year. The good Senator from the other end put it in again this session. All it does is to take care of the people who elect to go into the Peace Corp or VISTA, just like you and I might elect to go into the service. They serve their country. Is it too much to ask for them to be able to buy back their time as if they were in the military? It is a very simple little bill to help these people that served in VISTA and the Peace Corp, that is all it does. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative TUTTLE: Mr. Speaker, Men and Women of the House: I don't mean to belabor this issue, but I would agree with the Representative from Millinocket, Representative Clark that we should support this bill.

Under current law in the Maine State Retirement System, members may buy back service credit for certain types of nonmembership. In this bill we include members of the Peace Corps or VISTA similar to what would happen in military service. This bill would change bill status and is something that Representative Clark has said has been around and its time has come. The exchange program with respect to service credit and those members who know longer pay, essentially the benefits would be picked up.

At the testimony at the hearing, we had a number of people who had been Peace Corp employees and other members who were also former military people who say the justification for including these people. There were no opponents to the bill. As far as cost, the current law and under this bill would be cost neutral. The proposal would possibly create some degree of question as far as certain funding liability, but we think the way the bill is written, that could be handled. The bill as, again, I said would treat members of the Peace Corp exactly the same way as we treat present members of the military service. I encourage your support of this report.

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

Representative WINSOR: Mr. Speaker, Men and Women of the House: I don't stand here to be contentious with the majority of the members of the Labor Committee, nor my good friend from Millinocket. This is not an inexpensive bill. It is not freebe. Let me just say as of July 1, 1994, the Maine State Retirement System enjoys a nonfunded actuarial liability of \$2.8 billion dollars. That is a lot of money.

Just as a matter of history for every \$1,000,000 dollars that you add to the unfunded liability today amortized out over our current scheme costs us \$4,200,000 dollars and that is a lot of money. I have a personal rule in my life and that is I don't buy anything unless I really know the cost of it. I think it is my duty as a legislator means I shouldn't spend money unless I can really identify the cost. In all fairness to my fellow members on the Labor Committee the cost information that I wish to share with you today was not given to us at the time we worked the bill and passed it out. I just received that from the actuaries of the retirement system on Tuesday.

I did pass out some papers to you that share that information with you, but I want to continue that on. This bill does change the current law. There is an amendment, by the way, that only includes Peace Corp on this act. The bill before you if you amend it as recommended by the majority would only include Peace Corp people. It allows them to buy their two years worth of service after they have served in the state for 15 years, by paying the actuarial costs of leaving the retirement system whole. In other words, if you are in the Peace Corp now or were in the Peace Corp 15 years ago, got hired by the state of Maine, you can pay the actuarial costs and get two years worth of credit, under today's law.

This bill changes the law to allow former members of the Peace Corp to buy their time by paying only the employee share. What that does to you,

unfortunately, we don't know how many people that involves. There are about 24,000 state employees, if you assume that 100 of them would take advantage of this program. Here is how you figure the calculations. If you are a 45 year old teacher or a state employee with 15 years of service and he wants to buy back two years of Peace Corp time, his current pay is \$30,000 dollars, he started his first year of employment at the Peace Corp and his salary is \$15,000 dollars. Under the current law, he wanted to buy back those two years, he paid \$12,100 dollars. That is very expensive.

Under the proposed law, he would pay \$1,950 dollars and the state of Maine would pick up the tab of \$10,150 dollars. That is a real nice benefit that he didn't negotiate for. It wasn't a benefit when he got hired. That is one person. If 100 people similarly employed bought into the system, it is \$1,000,000 dollars. To pay that back to the retirement system over our current amortization that is \$4,200,000 dollars. That is a modest little expense, ladies and gentlemen, but I think it is very important to understand that expense when you vote on this bill. That is why I am supporting the motion to indefinitely postpone this bill. Thank you.

Representative CLARK of Millinocket requested the Clerk to read the Committee Report.

The Clerk read the Report in its entirety.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Taylor.

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

The SPEAKER: The Representative may pose his question.

Representative TAYLOR: Thank you. To anyone who knows more about the retirement system that I do, does military service count and it is not in a window of combat or police action, as we like to call it?

The SPEAKER: The Representative from Cumberland, Representative Taylor has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Norway, Representative Winsor.

Representative WINSOR: Mr. Speaker. There are a couple of provisions. If you happen to be on active duty and you are drafted, then there is a different thing. If you are working for the state of Maine and you are drafted on active duty, there is a different provision. It comes under the Sailors and Soldiers Act, I believe. You are only allowed the two years of service if you served during a defined time of conflict. It isn't just by joining the military that you have the right to buy back that time. Thank you.

The SPEAKER: The Chair recognizes the Representative from Paris, Representative Birney.

Representative BIRNEY: Mr. Speaker, Distinguished members of the House: I served on the Retirement Committee for the last session, as many of you are aware. This almost \$3 billion dollar liability scares the daylights out of me. Another thing that I want to bring up is that I continue to hear from the Maine Employees Association that the unfunded liability is due to the fact the state dipping into the funds of the retirement. Basically very little of the money of the unfunded liability is there because of that purpose. Most of the unfunded liability comes from things just like this. To add another \$4,250,000 dollars to that when we are trying to pay it off, I think is not fair to the rest of the state employees. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative SIMONEAU: I have the amendment in front of me. I want to be sure I am reading this right and I hope someone can respond to it. These people are already covered under Maine Law, but the requirement is they have to pay back their share, plus the interest, plus the state share. What this is doing is pulling them out of the present law and allows them to buy in, by simply paying in their share. Am I reading that correctly?

The SPEAKER: The Representative from Thomaston, Representative Simoneau has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Norway, Representative Winsor.

Representative WINSOR: Thank you Mr. Speaker. To the Representative from Thomaston, that is my understanding of the intent. The current law requires that anyone buying in pay the full actuarial cost of that purchase. The proposed law would mean that they would only pay in that share that would be normally taken out of their pay when they are working and they don't pay interest on it.

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

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

The pending motion before the House is to indefinitely postpone the Bill and all accompanying papers. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 92

YEA - Aikman, Ault, Bailey, Barth, Benedikt, Birney, Bunker, Cameron, Campbell, Chick, Chizmar, Clukey, Cross, Damren, DiPietro, Donnelly, Dore, Etnier, Farnum, Fisher, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Jones, S.; Joy, Joyce, Joyner, Kerr, Kneeland, Lane, Layton, Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Martin, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, O'Gara, O'Neal, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Pouliot, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Taylor, True, Tufts, Tyler, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor, Yackobitz.

NAY - Adams, Ahearne, Berry, Bouffard, Brennan, Chartrand, Chase, Clark, Cloutier, Daggett, Davidson, Desmond, Driscoll, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heesch, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Luther, Meres, Mitchell EH; Mitchell JE; Nadeau, Paul, Povich, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Townsend, Treat, Tripp, Tuttle, Volenik, Watson, The Speaker.

ABSENT - Bigl, Buck, Carleton, Dexter, Dunn, Heino, Keane, Labrecque, Lemont, Libby JD; Marshall,

Morrison, Richardson, Rotondi, Stone, Strout,
Thompson, Truman, Winn.

Yes, 78; No, 54; Absent, 19; Excused,
0.

78 having voted in the affirmative and 54 voted in
the negative, with 19 being absent, the Bill and all
accompanying papers were indefinitely postponed in
non-concurrence and sent up for concurrence.

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

On motion of Representative HICHBORN of Lagrange
the House adjourned at 6:20 p.m., pursuant to the
Joint Order (S.P. 560).