

MAINE STATE LEGISLATURE

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

VOLUME II

FIRST REGULAR SESSION

House of Representatives
May 24, 1995 to June 30, 1995

ONE HUNDRED AND SEVENTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
47th Legislative Day
Wednesday, May 24, 1995

The House met according to adjournment and was called to order by the Speaker.
Prayer by Bishop Curtis Call, Church of Jesus Christ of Latter Day Saints, Gardiner.
The Journal of yesterday was read and approved.

SENATE PAPERS

The following Communication: (H.C. 160)
Maine State Senate
State House Station 3
Augusta, Maine 04333
May 23, 1995

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

Please be advised that Jeffrey H. Butland, President of the Senate, today appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Increase the Tax Exemption on Church Properties" (H.P. 284) (L.D. 388):

Senator HALL of Piscataquis
Senator BEGLEY of Lincoln
Senator RAND of Cumberland

Sincerely,
S/May M. Ross
Secretary of the Senate
Was read and ordered placed on file.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills 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:

Banking and Insurance

Bill "An Act to Provide Administrative Clarification within the Maine Insurance Code" (H.P. 1100) (L.D. 1547) (Presented by Representative LUMBRA of Bangor)(Governor's Bill)

Bill "An Act to Clarify and Amend Provisions of the Maine Insurance Code and the Workers' Compensation Self-insurance" (EMERGENCY) (H.P. 1101) (L.D. 1548) (Presented by Representative JACQUES of Waterville)(Governor's Bill)

Business and Economic Development

Bill "An Act to Create Uniformity in Laws Governing Various Professional Licensing Boards and Commissions" (H.P. 1102) (L.D. 1549) (Presented by Representative VIGUE of Winslow)(Governor's Bill)

Legal and Veterans Affairs

Bill "An Act to Expedite the Appeal Process in the Case of a Writ of Possession" (H.P. 1099) (L.D. 1546) (Presented by Representative DAGGETT of Augusta) (Cosponsored by Representatives: MURPHY of Berwick, POULIN of Oakland)

REPORTS OF COMMITTEES
Ought to Pass as Amended

Representative TREAT from the Committee on Judiciary on Bill "An Act to Amend the Laws Governing Civil Liability for Individual Medical Providers with Whom the Department of Corrections Contracts" (H.P. 925) (L.D. 1306) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-294)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-294) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 25, 1995.

Ought to Pass Pursuant to Joint Order (H.P. 882)

Representative O'GARA from the Committee on Transportation on Bill "An Act Concerning Environmental Registration Plates" (EMERGENCY) (H.P. 1103) (L.D. 1550) reporting "Ought to Pass" Pursuant to Joint Order (H.P. 882)

Report was read and accepted. The Bill read once and assigned for second reading Thursday, May 25, 1995.

Divided Report

Majority Report of the Committee on Legal and Veterans Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-279) on Bill "An Act to Establish the Maine Outdoor Heritage Fund" (I.B. 3) (L.D. 717)

Signed:

Senators: MICHAUD of Penobscot
FERGUSON of Oxford

Representatives: FISHER of Brewer
TRUE of Fryeburg
CHIZMAR of Lisbon
MURPHY of Berwick
LEMONY of Kittery
NADEAU of Saco

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

Signed:

Senator: STEVENS of Androscoggin
Representatives: BUCK of Yarmouth
LABRECQUE of Gorham
GAMACHE of Lewiston

Was read.

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

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

Divided Report

Majority Report of the Committee on Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-273) on Bill "An Act Concerning Ring Holding Devices Used in Packaging" (H.P. 940) (L.D. 1329)

Signed:

Senators: LORD of York
HATHAWAY of York
RUHLIN of Penobscot
Representatives: GOULD of Greenville
POULIN of Oakland

SAXL of Bangor
GREENLAW of Standish
DAMREN of Belgrade
NICKERSON of Turner
MARSHALL of Eliot

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

Signed:

Representatives: MERES of Norridgewock
SHIAH of Bowdoinham
BERRY of Livermore

Was read.

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

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

CONSENT CALENDAR

First Day

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

(H.P. 884) (L.D. 1237) Bill "An Act to Ensure Public Review and Legislative Oversight of Proposals Regarding the Introduction or Reintroduction of Threatened or Endangered Species" Committee on Inland Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-288)

(H.P. 974) (L.D. 1383) Bill "An Act to Establish Periodic Adjustments in the Mileage Reimbursements" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-291)

(H.P. 1057) (L.D. 1486) Bill "An Act to Add Types of Pharmacies That Are Subject to Record Seizure" Committee on Criminal Justice reporting "Ought to Pass" as amended by Committee Amendment "A" (H-296)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 25, 1995 under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(H.P. 354) (L.D. 474) Bill "An Act Relating to Equipment Start-up, Shutdown and Unavoidable Malfunction" (C. "A" H-278)

(H.P. 425) (L.D. 582) Bill "An Act to Implement the Recommendations of the Commission to Study the Statutory Procedures for Local Property Tax Abatement Appeals" (C. "A" H-281)

(H.P. 747) (L.D. 1021) Bill "An Act Authorizing the State Board of Education to Adopt Rules Regarding Certain Early Childhood Personnel" (C. "A" H-284)

(H.P. 787) (L.D. 1104) Bill "An Act to Amend the Structure of the Electricians' Examining Board" (C. "A" H-280)

(H.P. 803) (L.D. 1120) Bill "An Act to Restore State Funding for State Expenses at County Jails" (EMERGENCY) (C. "A" H-287)

(H.P. 842) (L.D. 1173) Bill "An Act to Add Forfeiture of a Firearm as a Sentence Alternative for

the Crime of Possession of a Firearm by a Felon" (C. "A" H-286)

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

BILLS IN THE SECOND READING

Bill "An Act to Permit a One-time Transfer of Uncommitted Funds for Community Corrections Programs" (EMERGENCY) (H.P. 1095) (L.D. 1539)

As Amended

Bill "An Act to Reduce Paperwork and Promote On-site Elementary Neutralization of Low-hazard Wastes" (H.P. 475) (L.D. 656) (C. "A" H-277)

Bill "An Act to Permit the Equitable Taxation of Leased Equipment" (H.P. 486) (L.D. 667) (C. "A" H-283)

Bill "An Act to Require Firearm Hunters to Wear Blaze Orange" (H.P. 586) (L.D. 796) (C. "A" H-264)

Bill "An Act to Encourage Compliance with Environmental Laws Administered by the Department of Environmental Protection" (H.P. 677) (L.D. 928) (C. "A" H-285)

Bill "An Act to Require Licensure for Use of the Title Athletic Trainer" (H.P. 699) (L.D. 957) (C. "A" H-282)

Resolve, Authorizing the Director of the Bureau of Parks and Recreation to Sell Land and Improvements on Hospital Street in Augusta, Maine Known as the Trial House (H.P. 809) (L.D. 1126) (C. "A" H-275)

Bill "An Act to Increase Moose Hunting Permit Application Fees" (H.P. 841) (L.D. 1172) (C. "A" H-263)

Bill "An Act to Further Support the Community Service Volunteer Programs of the National Senior Service Corps of Maine" (H.P. 889) (L.D. 1242) (C. "A" H-267)

Bill "An Act to Increase Venture Capital Access to State Businesses" (H.P. 920) (L.D. 1296) (C. "A" H-272)

Bill "An Act to Repeal the Law Regarding Access to Property via Abandoned Roads" (H.P. 966) (L.D. 1375) (C. "A" H-276)

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

ENACTORS

Mandate

An Act to Combine the Sabattus Water District and the Sabattus Sanitary District (S.P. 411) (L.D. 1099) (C. "A" S-131)

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

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

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

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

An Act to Amend the Toxics in Packaging Law (H.P. 766) (L.D. 1040) (C. "A" H-234)

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

An Act to Reimburse Former Temporary Hearing Officers of the Workers' Compensation Board for Lapsed Vacation Time (S.P. 234) (L.D. 599) (C. "A" S-88)

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

On motion of Representative JACQUES of Waterville was set aside.

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

On motion of Representative KONTOS of Windham the House reconsidered its action whereby expression of Legislative Sentiment recognizing Annie Winther, of Windham, (HLS 288) was passed.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: At the risk of sounding like Willard Scott this morning, I want to speak to you about Annie Winther, who incidentally is the mother-in-law of the Secretary of State, Bill Diamond. Since his wife Jane and I are close friends and Annie is the first of a generation of four outstanding women, I wanted to make sure that this body made special notice of her 102nd birthday.

You should realize she was married for 60 years and has been widowed for 26. She is one of those kinds of women that all of us have in our communities. She made outstanding contributions as a wife, mother and employee. She is now unable to walk because of arthritis, but still has a vibrant lively mind and I know all of you want to join me in extending our wishes to her. Thank you.

Subsequently, was read and passed and sent up for concurrence.

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

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

SENATE PAPERS

Bill "An Act to Provide Funds for the Bigelow Laboratory for Ocean Sciences in Boothbay Harbor" (S.P. 568) (L.D. 1537)

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

Was referred to the Committee on Marine Resources in concurrence.

Bill "An Act to Streamline Permit Procedures for Freshwater Wetlands in the State" (S.P. 570) (L.D. 1544) (Governor's Bill)

Came from the Senate referred to the Committee on **Natural Resources** and Ordered Printed.

Was referred to the Committee on Natural Resources in 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)

TABLED - May 18, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Motion of Representative MITCHELL of Vassalboro to reconsider passage to be engrossed.

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

An Act to Enable the Department of Corrections to Share Information with Canadian Criminal Justice Agencies (H.P. 846) (L.D. 1177)

TABLED - May 18, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Passage to be Enacted.

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

SENATE DIVIDED REPORT - Majority (10) "Ought Not to Pass" - Minority (3) "Ought to Pass" as amended by Committee Amendment "A" (S-142) - Committee on **Utilities and Energy** on Bill "An Act to Facilitate Charging Electric Utility Customers Based on Actual Usage" (S.P. 31) (L.D. 61)

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

TABLED - May 18, 1995 (Till Later Today) by Representative JACQUES of Waterville.

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

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative KONTOS of Windham to accept the Majority "Ought Not to Pass" Report and later today assigned.

SENATE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (S-119) - Committee on **Utilities and Energy** on Bill "An Act to Clarify the Intent of the Electric Rate Reform Act" (S.P. 253) (L.D. 691)

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

TABLED - May 18, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Acceptance of either Report.

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

Resolve, to Strengthen Fish Hatchery Capacity within the State by Establishing a Partnership between Public and Private Organizations (S.P. 365) (L.D. 991) (C. "A" S-116)

TABLED - May 18, 1995 by Representative CLOUTIER of South Portland.

PENDING - Final Passage.

Subsequently, the Resolve was finally passed, signed by the Speaker and sent to the Senate.

SENATE DIVIDED REPORT - Majority (10) "Ought to Pass" as amended by Committee Amendment "A" (S-115) - Minority (3) "Ought Not to Pass" - Committee on Taxation on Bill "An Act to Create an Income Tax Stabilization Program" (EMERGENCY) (S.P. 98) (L.D. 238)

- 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-115).

TABLED - May 23, 1995 (Till Later Today) by Representative DORE of Auburn.

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

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

Bill "An Act to Authorize Certain Employees of the Department of Corrections to Use Deadly Force" (S.P. 454) (L.D. 1250) (S. "A" S-149 to C. "A" S-133)

TABLED - May 23, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Passage to be Engrossed.

Subsequently, the Bill was passed to be engrossed in concurrence.

An Act to Require All Persons to Use Safety Belts in Motor Vehicles (S.P. 77) (L.D. 165) (H. "A" H-181; S. "A" S-135 to C. "A" S-91)

TABLED May 23, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Passage to be Enacted.

On motion of Representative LIBBY of Buxton, the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 165 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-91) as amended by Senate Amendment "A" (S-135) was adopted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Senate Amendment "A" (S-135) was adopted.

The same Representative moved that Senate Amendment "A" (S-135) be indefinitely postponed.

The Chair ordered a Division on the motion to indefinitely postpone Senate Amendment "A" (S-135).

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: Obviously, I urge the House to defeat the motion to indefinitely postpone and may I pose a question through the Chair.

The SPEAKER: The Representative may pose his question.

Representative O'GARA: To the Representative from Buxton, would the Representative from Buxton like to explain the purpose, the reason for asking for this to be indefinitely postponed.

The SPEAKER: The Representative from Westbrook, Representative O'Gara has posed a question through the Chair to the Representative from Buxton, Representative Libby. The Chair recognizes that Representative.

Representative LIBBY: Mr. Speaker, Men and Women of the House: Seat belt advocates want us to buckle up and I can understand their position. Yet, it doesn't make too much sense at this point, they don't want primary enforcement in the referendum, because they don't think the voters will vote for it. They don't think the voters will buy it, that's why you saw Senate Amendment "A" go under the hammer. You can't have it both ways. If you want seat belt usage up, then let's vote for primary enforcement in the referendum. I don't go along with adding passive enforcement to the debate just because the seat belt advocates think they have a better chance of it passing out there by the voters.

By adding this amendment, seat belt advocates are admitting that Mainers aren't going to vote for this very easily. Last week this body approved a seat belt measure that would go to the voters. A measure that we all voted on and it included what's called primary enforcement, that means that the police could pull you over and give you a summons if you don't wear the belt. Later under the hammer, the Senate Amendment changed this body's position from primary enforcement to passive enforcement, i.e. no summons, unless you are pulled over for another reason. I tried to approach this the right way, rather than object, I tried to have the bill, after it had gone under the hammer, I tried to have the bill held for reconsideration, but I was told that it had been sent forthwith so that is the reason I requested that the rules be suspended here.

In conclusion, I'm kind of surprised to be challenged on this motion, nobody has been challenged before. It's kind of a courtesy that we've been given. I realize this is an important matter and so I can understand the challenge, but I hope that you will support letting the people decide on a real seat belt law, either one with enforcement or one without. I think it should go to the voters that way. I would appreciate your consideration here.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I would try to be as calm in responding to the comment about the common courtesy regarding the move to indefinitely postpone by simply pointing out that the House, in fact, the Chair of the Committee on Transportation was not given any discussion of the amendment, whatsoever, before hand. Enough about that.

Ladies and gentlemen of the House, let me expose this for exactly what it is. Our purpose originally was to have a seat belt law be passed by the legislature and go out as a law with primary enforcement. It became obvious that the majority, at least a lot of the people expressed the desire to vote for seat belts, but they did not want it to be primary enforcement. They requested it be secondary enforcement. We agreed with that and we amended it to do so. Subsequently, that was defeated and the motion to extend it out to referendum was passed and

it went to the Senate, and it is a fact, that we decided that since we had been told up front during the earlier discussion that primary enforcement was a major issue with many of you in this body.

We decided in both Houses that we would put the amendment in that would make it secondary and that was agreeable to the sponsors, I understand, it would go out to the voters in November. Now let me tell you what will happen. If the seat belt goes out the way it is without this amendment or this attempt to indefinitely postpone, and it were passed in November, we would have a seat belt law that the voters said they wanted, but it would be with secondary enforcement, meaning that the concern you had about a law enforcement officer being able to stop the person for any reason at all, just for that reason I mean, would not be included.

If it goes out the way it is now being suggested, if this amendment goes through, rather if we indefinitely postpone this amendment, it will go out to the voters and they'll be voting on a seat belt law that includes primary enforcement, the very thing that you're saying the constituents who might be supportive of seat belts do not want. See this attempt, ladies and gentlemen of the House, for exactly what it is, there are those who are getting up and suggesting to you that they want to give the voters of Maine a chance to vote, but they are deliberately making it so difficult that, in fact, this will be an issue used in November, an issue we're trying to avoid.

I hope I have explained it completely to you, what is happening here and what the attempt is. Those who are absolutely positively determined that there will not be a seat belt law in this state, I am amending this out, not for the reason that you heard a few minutes ago, however, nice sounding they might be, but for one reason, and one reason only, they know that it will become a major issue in the newspaper and on TV and the radio that this primary and do you want, I can see it now, law enforcement officers to be able to stop you just for seat belts and the answer is going to be no. I do believe that if it goes out the way we have it now, the citizens of Maine will, in fact, adopt the seat belt law with secondary enforcement. I urge you, sincerely, to defeat the motion to indefinitely postpone. Thank you.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: I think the Chairman of the Committee has done a good job this morning explaining exactly what the bill does, but I must disagree with him. I must tell you that this body last week supported another version. It seems to me that the other body doesn't want to agree with us and that's fine.

I think if we want to pass the seat belt bill in here to put it to referendum, we have that choice. I think our choice is to stay with our position we had last week and I think we ought to support the gentleman from Buxton in indefinitely postponing Senate Amendment "A". It's very clear to me last week that we were willing to go that route and that's the way we voted. If the other end of this building doesn't want to agree with us, that's fine. I think that we have a choice of passing it, our version.

I would just say to the Chairman of the Committee, you've done a good job explaining your position. I'm trying to explain my position and that's the way I see it and that's the way I'm going to vote.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I would just caution people from reading too much into previous votes of this body on this issue. I recollect that the first time we voted on this there were three votes and this body was unable to pass or kill any one of the proposals before it, so I think this is certainly open for further discussion.

I for one would encourage people to oppose the indefinite postponement of the Senate Amendment for the following reason. I do believe that there are many of us who are, in fact, uncomfortable with primary enforcement and is less an issue of what is going to pass or shouldn't pass with the voters as what is the right thing to be doing here. I know there are a number of people that were not comfortable with the original proposal that came from primary enforcement, some voted against the proposal for that reason, others voted for it hoping it would be amended. I was in that category. I think it is a good proposal.

We should trust the voters on this. It seems that this body is unable to make up its mind on any logical way on this and I think we ought to send something out to the voters and give them the opportunity. I believe they will use common sense and come up with the right decision.

The SPEAKER: The pending question before the House is indefinitely postpone Senate Amendment "A". The Chair will order a division.

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

Representative GERRY: Mr. Speaker, Ladies and Gentlemen of the House: I encourage this body to support Representative Libby to indefinitely postpone this additional amendment. This weekend I've had 23 phone calls in support of my putting it out for referendum. They said, "Thank you for giving us the choice." Then they also concluded "well, what the heck are you guys doing up there, throwing another amendment on there, to say that the police can't stop us just for the sake of wearing a seat belt, but they have to stop us for something else." They said, "heck, now the cops are going to come up with other excuses for stopping us. They could say our brake light is out, pull us over and woe you don't have you don't have your seat belt on, than you go check your brake light and they say well maybe it came back on when you started up or when you stopped." I don't know, all I know is this is just a way for a game for the police to enforce this thing, so please vote to indefinitely postpone this.

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

Representative O'GARA: Mr. Speaker, Men and Women of the House: In response to the remarks from the gentleman from Corinth, I submit to you that from the conversation that we had with dozens of legislators following the vote the other day, that most all of those people did not realize that when they voted to send out to referendum, which they thought was the best compromise of all of the votes that was mentioned by Representative Treat, a few minutes ago, that was the best compromise we could come up with.

I submit to you that the great majority did not realize that it was going to include primary enforcement and have requested and suggested that this is why we added that amendment on. I do urge

you to vote against the motion to indefinitely postpone. Thank you.

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

The SPEAKER: The Representative may pose his question.

Representative PERKINS: Is it not true that the way the current law is for people under 19 it's a passive enforcement? I believe that's true. Could somebody comment on that?

The SPEAKER: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Men and Women of the House: The answer is yes and it would seem to me that would be a further reason to defeat this motion and leave the amendment on that we have so that it would be consistent all the way through. Thank you.

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

Representative PERKINS: Mr. Speaker, Men and Women of the House: Just a further clarification question, is that written into law or is that just a way that they do enforce it? Does anybody know that?

The SPEAKER: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Men and Women of the House: As I said the answer is yes.

The SPEAKER: The Chair will order a division. If you're in favor of the motion to indefinitely postpone Senate Amendment "A", you'll be voting yes; if you're opposed you'll be voting no. Is the House ready for the question? The Chair will open the vote.

Representative STROUT of Corinth requested a roll call on the motion to indefinitely postpone Senate Amendment "A" (S-135).

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 to Indefinitely Postpone Senate Amendment "A" (S-135). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 109

YEA - Ahearne, Aikman, Ault, Bailey, Bigl, Birney, Buck, Cameron, Campbell, Chick, Chizmar, Clark, Clukey, Cross, Damren, Donnelly, Gerry, Gould, Greenlaw, Hatch, Heino, Hichborn, Joseph, Joy, Joyce, Joyner, Kerr, Kneeland, Labrecque, LaFountain, Lane, Layton, Lemke, Lemont, Libby JD; Libby JL; Look, Lumbr, Luther, Madore, Marshall, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Neal, Peavey, Pendleton, Perkins, Pinkham, Poirier, Rice, Ricker, Robichaud, Rosebush, Rotondi, Savage, Spear, Stedman, Strout, True, Tufts, Underwood, Waterhouse, Wheeler, Whitcomb, Winsor, Yackobitz.

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

ABSENT - Adams, Dexter, Guerrette, Jones, S.; Kilkelly, Lindahl, Plowman, Pouliot, Thompson, Truman. Yes, 70; No, 71; Absent, 10; Excused, 0.

70 having voted in the affirmative and 71 voted in the negative, with 10 being absent, the motion to indefinitely postpone Senate Amendment "A" (S-135) did not prevail.

Committee Amendment "A" (S-91) was adopted. Senate Amendment "A" (S-135) to Committee Amendment "A" (S-91) was adopted. The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-91) as amended by Senate Amendment "A" (S-135) thereto and House Amendment "A" (H-181).

Representative MARSHALL of Eliot requested a roll call on passage to be enacted.

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

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

The pending question before the House is Enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 110

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

NAY - Ahearne, Aikman, Ault, Bailey, Bigl, Campbell, Chick, Chizmar, Clukey, Cross, Damren, Donnelly, Dunn, Gerry, Greenlaw, Hartnett, Hatch, Heino, Hichborn, Joseph, Joy, Joyce, Joyner, Kerr, Kneeland, Labrecque, LaFountain, Lane, Layton, Lemke, Lemont, Libby JD; Libby JL; Look, Lumbr, Luther, Madore, Marshall, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Neal, Peavey, Pendleton, Perkins, Pinkham, Poirier, Rice, Ricker, Robichaud, Rosebush, Rotondi, Savage, Spear, Stedman, Strout, True, Underwood, Waterhouse, Wheeler, Whitcomb, Winsor, Yackobitz.

ABSENT - Adams, Dexter, Guerrette, Jones, S.; Kilkelly, Lindahl, Pouliot, Thompson, Truman.

Yes, 76; No, 66; Absent, 9; Excused, 0.

76 having voted in the affirmative and 66 voted in the negative, with 9 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act Concerning Sick Leave and Vacation Benefits (H.P. 388) (L.D. 523) (C. "A" H-140)
TABLED May 23, 1995 (Till Later Today) by Representative ROBICHAUD of Caribou.

PENDING - Passage to be Enacted.

Representative ROBICHAUD of Caribou requested a roll call on passage to be enacted.

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

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

The pending question before the House is Enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 111

YEA - Ahearne, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heesch, Hichborn, Johnson, Jones, K.; Joseph, Keane, Kerr, Kontos, Lemaire, Lemke, Luther, Martin, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Perkins, Poulin, Povich, Reed, G.; Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Winn, The Speaker.

NAY - Aikman, Ault, Barth, Birney, Buck, Cameron, Carleton, Chick, Clukey, Cross, Damren, Donnelly, Dunn, Gieringer, Gooley, Greenlaw, Hartnett, Heino, Joy, Joyce, Joyner, Kneeland, Labrecque, LaFountain, Lane, Layton, Lemont, Libby JD; Libby JL; Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Pinkham, Plowman, Poirier, Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, True, Tufts, Underwood, Waterhouse, Wheeler, Winsor, Yackobitz.

ABSENT - Adams, Campbell, Dexter, Guerrette, Jacques, Jones, S.; Kilkelly, Lindahl, Nadeau, Pouliot, Thompson, Truman, Whitcomb, Winglass.

Yes, 74; No, 64; Absent, 13; Excused, 0.

74 having voted in the affirmative and 64 voted in the negative, with 13 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Permit the Buyback of Retirement Time (H.P. 567) (L.D. 768) (C. "A" H-196)

TABLED May 23, 1995 (Till Later Today) by Representative JOYCE of Biddeford.

PENDING - Passage to be Enacted.

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

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

expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

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

The pending question before the House is Enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 112

YEA - Ahearne, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gates, Gerry, Gould, Green, Hatch, Heesch, Hichborn, Johnson, Jones, K.; Joseph, Keane, Kontos, Lemaire, Lemke, Lemont, Luther, Martin, McAlevey, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, O'Gara, O'Neal, Paul, Pendleton, Poulin, Povich, Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, The Speaker.

NAY - Aikman, Ault, Barth, Birney, Buck, Campbell, Carleton, Chick, Clukey, Cross, Damren, Donnelly, Dunn, Farnum, Gamache, Gieringer, Gooley, Greenlaw, Hartnett, Heino, Joy, Joyce, Joyner, Kerr, Kneeland, Labrecque, LaFountain, Lane, Layton, Libby JD; Libby JL; Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McElroy, Nass, Nickerson, Ott, Peavey, Perkins, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, True, Tufts, Underwood, Waterhouse, Winglass, Winn, Winsor, Yackobitz.

ABSENT - Adams, Dexter, Guerrette, Jacques, Jones, S.; Kilkelly, Lindahl, Nadeau, Pouliot, Thompson, Truman, Whitcomb.

Yes, 73; No, 66; Absent, 12; Excused, 0.

73 having voted in the affirmative and 66 voted in the negative, with 12 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Ensure Disclosures under the Used Car Information Laws (H.P. 859) (L.D. 1190) (C. "A" H-236)
TABLED May 23, 1995 (Till Later Today) by Representative JOYCE of Biddeford.

PENDING - Passage to be Enacted.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

At this point, pursuant to House Rule 1, the Chair announced the following change in Committee appointments:

Representative PAUL of Sanford is appointed to the Joint Standing Committee on Banking and Insurance, replacing Representative MITCHELL of Vassalboro.

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

On motion of Representative MITCHELL of Vassalboro, the House recessed until 6:00 p.m.

(After Recess)

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

Under suspension of the rules, members were allowed to remove their jackets.

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

Committee of Conference

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on: RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for 4-year Terms for Senators (S.P. 155) (L.D. 378) have had the same under consideration and ask leave to report:

That they are unable to agree.

Signed:

Senators: HARRIMAN of Cumberland
AMERO of Cumberland
CIANCHETTE of Somerset
Representatives: AHEARNE of Madawaska
SAXL of Bangor
YACKOBITZ of Hermon

Came from the Senate with the Committee of Conference Report read and accepted.

The Committee of Conference Report was read and accepted in concurrence.

SENATE PAPERS

The following Communication: (H.C. 172)
Maine State Senate
State House Station 3
Augusta, Maine 04333

May 23, 1995

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

Dear Clerk Mayo:

Please be advised that the Senate today Insisted to its former action whereby it accepted the Minority Ought Not to Pass Report on Bill "An Act to Limit Copayments for Participants in Medicaid Managed Care Demonstration Projects" (H.P. 233) (L.D. 313).

Sincerely,

S/May M. Ross

Secretary of the Senate

Was read and ordered placed on file.

Ought to Pass as Amended

Report of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-151) on Bill "An Act to Prohibit Any State or Independent Agency from Establishing Private Accounts" (S.P. 277) (L.D. 749)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-151).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-151) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 25, 1995.

Ought to Pass as Amended

Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-154) on Bill "An Act to Amend the Law Dealing with Agreements for Recovery of Personal Property" (S.P. 359) (L.D. 985)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-154).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-154) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 25, 1995.

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Reduce the Maine Sales Tax and the Meals and Lodging Tax to 3%" (EMERGENCY) (S.P. 470) (L.D. 1266)

Signed:

Senator: CAREY of Kennebec
Representatives: TRIPP of Topsham
TUTTLE of Sanford
KEANE of Old Town
RICHARDSON of Portland
GREEN of Monmouth
DORE of Auburn

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-152) on same Bill.

Signed:

Senators: HATHAWAY of York
FERGUSON of Oxford
Representatives: MURPHY of Berwick
SPEAR of Nobleboro
DUNN of Gray
REED of Falmouth

Came from the Senate with the Minority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-152).

Was read.

On motion of Representative MITCHELL of Vassalboro, tabled pending acceptance of either Report and later today assigned.

Non-Concurrent Matter

Bill "An Act to Require Uniform Public Access and Tax Status for Water Districts" (H.P. 311) (L.D. 415) which was passed to be engrossed as amended by Committee Amendment "A" (H-228) in the House on May 16, 1995.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-228) as amended by Senate Amendment "A" (S-171) thereto in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

Bill "An Act to Coordinate Low-income Energy Assistance Programs" (S.P. 270) (L.D. 721) on which the Majority **"Ought Not to Pass"** Report of the Committee on **Business and Economic Development** was read and accepted in the House on May 18, 1995.

Came from the Senate with that Body having insisted on its former action whereby the Minority **"Ought to Pass"** as amended Report of the Committee on **Business and Economic Development** was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-126) and asked for a Committee of Conference in non-concurrence.

Representative ROWE of Portland moved that the House Adhere.

Representative WHITCOMB of Waldo tabled pending the motion of Representative ROWE of Portland to Adhere and later today assigned.

REPORTS OF COMMITTEES**Ought to Pass as Amended**

Representative TREAT from the Committee on **Judiciary** on Bill "An Act to Allow for Decreased Municipal Liability Regarding Ice-skating Rinks" (H.P. 750) (L.D. 1024) reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-301)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-301) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 25, 1995.

Ought to Pass as Amended

Representative CHICK from the Committee on **Inland Fisheries and Wildlife** on Bill "An Act to Increase the Formula Used for ATV's and Snowmobile Reimbursement" (H.P. 802) (L.D. 1119) reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-297)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-297) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 25, 1995.

CONSENT CALENDAR**First Day**

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

(S.P. 408) (L.D. 1096) Bill "An Act to Amend the Law Governing Municipal Zoning with Respect to Community Living Arrangements" Committee on **State and Local Government** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-150)

(H.P. 576) (L.D. 781) Bill "An Act Protecting a Citizen's Right of Petition under the Constitution" Committee on **Judiciary** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-300)

(H.P. 589) (L.D. 799) Bill "An Act to Amend the Laws Governing HIV Testing at the Request of Victims of Sexual Assault" Committee on **Human Resources** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-299)

(H.P. 772) (L.D. 1069) Bill "An Act to Promote the Use of Alternative Dispute Resolution in State Government" Committee on **Judiciary** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-302)

(H.P. 947) (L.D. 1336) Resolve, to Direct the Land and Water Resources Council to Develop Alternatives to the Site Location of Development Laws That Protect the Environment and Improve the Effectiveness and Efficiency of the State's Land Use Laws (Governor's Bill) Committee on **Natural Resources** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-303)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 25, 1995 under the listing of Second Day.

ENACTORS**Emergency Measure**

An Act to Amend the Charter of the Searsport Water District (H.P. 629) (L.D. 854)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 128 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Bill "An Act to Update and Clarify the Corporate Laws" (S.P. 571) (L.D. 1545)

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 Avoid a Shortfall in the Maine Ground Water Oil Clean-up Fund and Amend the Financial Assistance Program for Owners of Underground Oil Storage Facilities" (EMERGENCY) (S.P. 569) (L.D. 1543) (Governor's Bill)

Came from the Senate indefinitely postponed.

(The Committee on Reference of Bills had suggested reference to the Committee on **Natural Resources**.)

Was indefinitely postponed in concurrence.

Ought to Pass as Amended

Report of the Committee on **Labor** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-164) on Bill "An Act to Amend the Child Labor Laws to Allow Minors to Work in Hotels or Rooming Houses" (S.P. 146) (L.D. 332)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-164).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-164) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 25, 1995.

Ought to Pass as Amended

Report of the Committee on **Business and Economic Development** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-159) on Bill "An Act to Amend the Loring Development Authority Law" (S.P. 304) (L.D. 843)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-159).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-159) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 25, 1995.

Ought to Pass as Amended

Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-166) on Bill "An Act to Provide Immunity for Clinicians Contracted by the State Forensic Service" (S.P. 413) (L.D. 1136)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-166).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-166) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 25, 1995.

Ought to Pass as Amended

Report of the Committee on Education and Cultural Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-168) on Bill "An Act to Improve Public Access to the Maine State Museum" (S.P. 483) (L.D. 1317)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-168).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-168) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 25, 1995.

CONSENT CALENDAR

First Day

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

(S.P. 119) (L.D. 294) Bill "An Act to Increase the Number of Primary Care Practitioners in the State" Committee on Education and Cultural Affairs reporting "Ought to Pass"

(S.P. 393) (L.D. 1081) Bill "An Act to Allow Part-time Police Officers to Acquire Liquor Licenses" Committee on Legal and Veterans Affairs reporting "Ought to Pass"

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

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

(S.P. 348) (L.D. 976) Bill "An Act Regarding Liquor Licenses for Golf Courses" Committee on Legal and Veterans Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-155)

(S.P. 378) (L.D. 1055) Resolve, Requiring a Study of the State's Export Financing Services Committee on Business and Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (S-167)

(S.P. 409) (L.D. 1097) Resolve, to Establish the Task Force to Study Environmental Regulation

Committee on Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-169)

(S.P. 418) (L.D. 1141) Bill "An Act Concerning Employee Leasing Companies" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-162)

(S.P. 437) (L.D. 1205) Bill "An Act to Conform State Unemployment Compensation Laws to Federal Requirements" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-163)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 25, 1995 under the listing of Second Day.

Committee of Conference

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on: RESOLUTION, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the Legislature Following Redistricting in the Year 2003 (S.P. 170) (L.D. 431) have had the same under consideration and ask leave to report:

That they are unable to agree.

Signed:

Senators: RUHLIN of Penobscot

AMERO of Cumberland

CARPENTER of York

Representatives: DAGGETT of Augusta

SAXL of Bangor

ROBICHAUD of Caribou

Came from the Senate with the Committee of Conference Report read and accepted.

The Committee of Conference Report was read and accepted in concurrence.

ENACTORS

Emergency Measure

An Act to Increase Safety in Highway Construction and Work Maintenance Areas (H.P. 134) (L.D. 182) (C. "A" H-239)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 128 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (10) "Ought to Pass" as amended by Committee Amendment "A" (H-175) - Minority (3) "Ought Not to Pass" - Committee on Appropriations and Financial Affairs on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Line-item Veto (H.P. 729) (L.D. 1003) TABLED - May 23, 1995 (Till Later Today) by Representative JACQUES of Waterville.
PENDING - Motion of Representative KERR of Old Orchard Beach to accept the Majority "Ought to Pass" as amended Report. (Roll Call Ordered)

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I won't prolong this discussion. We went over it pretty well a couple of days ago. I will just remind you that the essence of making progress on budgets is compromise. We hope to reach one this year. I can't imagine compromising, giving something in order to gain something, when I run the risk of knowing that it could then be vetoed by the Governor. I urge you to oppose the pending motion. Thank you.

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

ROLL CALL NO. 113

YEA - Aikman, Ault, Bailey, Bigl, Bouffard, Buck, Cameron, Carleton, Chick, Clark, Clukey, Cross, Damren, Davidson, DiPietro, Driscoll, Dunn, Etnier, Farnum, Gamache, Gates, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Heino, Hichborn, Joy, Joyce, Joyner, Keane, Kerr, Kneeland, Labrecque, LaFountain, Lane, Layton, Lemke, Lemont, Libby JD; Libby JL; Look, Lovett, Lumbra, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, McElroy, Morrison, Murphy, Nadeau, Nass, Nickerson, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Povich, Reed, G.; Reed, W.; Rice, Robichaud, Rosebush, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, Thompson, True, Tufts, Tuttle, Tyler, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

NAY - Ahearne, Benedikt, Berry, Brennan, Bunker, Chartrand, Chase, Chizmar, Cloutier, Desmond, Dore, Fisher, Fitzpatrick, Gerry, Green, Hartnett, Hatch, Heeschen, Jacques, Johnson, Jones, K.; Joseph, Kontos, Lemaire, Luther, Meres, Mitchell EH; Mitchell JE; O'Neal, Pouliot, Richardson, Ricker, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Townsend, Treat, Tripp, Volenik, Watson, Winn.

ABSENT - Adams, Barth, Birney, Campbell, Daggett, Dexter, Donnelly, Jones, S.; Kil Kelly, Lindahl, O'Gara, Truman, Yackobitz, The Speaker.

Yes, 91; No, 46; Absent, 14; Excused, 0.

91 having voted in the affirmative and 46 voted in the negative, with 14 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Resolution was read once. Committee Amendment "A" (H-175) was read by the Clerk and adopted.

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

Representative KERR of Old Orchard Beach presented House Amendment "A" (H-238) which was read by the Clerk and adopted.

The Resolution was passed to be engrossed as amended by Committee Amendment "A" (H-175) and House Amendment "A" (H-238) and sent up for concurrence.

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

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

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) which was tabled by Representative JACQUES of Waterville pending the motion of Representative MITCHELL of Vassalboro to reconsider passage to be engrossed.

The House reconsidered passage to be engrossed.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I move indefinite postponement of this bill and all accompanying papers. It's always a very difficult thing to go against an entire committee, particularly a committee that has done an excellent job in laying before us all the tax policy issues of this session, but the reason I made the motion to indefinitely postpone this bill, this bill tries to put into statute committee jurisdiction. It basically says that any legislation that has a tax matter in it, not reviewed by the Taxation Committee is null and void if we should pass it and they have not reviewed it.

Now because I was concerned about this, I did write to the Attorney General and ask for an opinion on what that meant to us and I will share with you the pertinent lines. The bill provides that if the Taxation Committee does not review any future legislation that legislation is void. Please be advised that in the view of this department this legislation if enacted would be of no affect. As explained more fully in the attached opinion, the legislature is without constitutional power to enact conditions whereby future statutes may be enacted except through the medium of amending the Maine Constitution.

Since LD 504 is an effort to impose such a condition on the enactment of future tax legislation it would not, in our view, be given effect by the courts. I would only like to add that the fact that the legislature can not affect the objective of L.D. 504 by statutes does not mean that the Legislature can not as a matter of its own internal rules or policy secure the same result, which is really my position. We have within our power through our rules and our own procedure to insure that bills concerning tax matters are indeed reviewed by the committee of jurisdiction and I do support that but I must ask you to join me in indefinitely postponing this legislation, because although its well intended, it accomplishes nothing.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: You may ask yourself, why did 13 people vote for something that doesn't have any teeth in it. Well I think that when we voted for it we didn't realize that it didn't have any teeth. It is true that the good Representative from Vassalboro, Representative Mitchell, did inquire of the Attorney General's Office whether or not this would be legal and enforceable and, in fact, found out that it was a law without substance. I'm going to accept the indefinite postponement, but I want to tell you where this came from.

The Taxation Committee, all of us, in both parties and some former members in both parties are extremely frustrated because, you know at the end of the circus

parade somebody comes along and scoops up the mess, well that's how we feel. Why do we feel that way? We're blamed for the hospital tax, we didn't do the hospital tax, that was cooked up between the administration and the Appropriations Committee. We never even saw the hospital tax until this year. We're blamed for the nursing home tax, we didn't do the nursing home tax. Just the other night we were blamed for the nursing home tax. I repeat, we did not do the nursing home tax. The nursing home tax was cooked up between the administration and Appropriations.

Would we have voted for it in the end? Oh probably, it was a gimmick, that enabled us to get a lot more federal money when we were in the middle of a horrible recession and so like all of you in this body. Many of whom voted for the budget two years ago, probably we would have voted for it, but if it had been in our committee we feel like maybe it wouldn't have been such a mess. Maybe we wouldn't be in such trouble with the federal government right now. We're just frustrated, as a committee that items that affect taxation and that are about tax policy end up being cooked up somewhere else and we end up taking the wrap. You want to cook it somewhere else, take the wrap.

So you've got to understand where a 13 to zero report came from. When you talk to your constituents at home about the nursing home tax, you can blame anyone but us, because all we've done is try to straighten out that mess as much as we could given the confines of the financial limits of the problem, and the dependency we've developed on federal funds because of this recession, but it wasn't our idea, nobody even consulted us onto rather it was done in a proper way. I think we fixed it somewhat last time on the nursing home tax, in terms of making it at least flyable with the federal government.

We certainly didn't fix it in terms of the private pay people because we couldn't because the money isn't there. We understand that, but it shouldn't have been done in the first place anywhere other than in tax. So I am taking this opportunity to tell you. You just can't lay the wrap on people if you never let them look at the issue where they have jurisdiction.

That just doesn't go for tax, there are other places where the committee of jurisdiction doesn't have authority and don't blame the committee of jurisdiction. Now this year somebody's got a snowmobile fee out there that belongs in tax, but it isn't in tax. I don't want to hear about that darn snowmobile fee next year. Tax matters belong in tax and when they don't end up in tax, there's just a mess to clean up in the end. That's why you've got 13 people bipartisan and I'm sure some colleagues who were with us last time cleaning up the mess from nursing homes who would appreciate it if they didn't end up getting cooked up by people somewhere else and it's so convenient for those very same people to tell us that we did this. Well we didn't. Thank you ladies and gentlemen.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, am disappointed in the Attorney General's Report, however, I'm going to respect it also. I have to agree with the good Chair from Taxation, it is a mess we're cleaning up, and I like to believe that every piece of taxation that

goes through this Legislature has a public hearing and when it's done in the Appropriations Committee and through the Governor's Office it does not have the proper public hearing and the airing it should have so that the people of Maine know what we're doing and what we are putting on to them in taxes.

I think that that is unfair to our constituents and I was really in hopes that this would have been proved legal so that we could have done it so as to make sure that the Taxation Committee, and I will not be on it after next year, that the Taxation Committee in the future when they are raising taxes on the people of this State that the Taxation Committee is to blame for it and they can take the blame and I feel quite certain that the 13 members that I served with in the last term, if we'd had the tax and match aired the way we should have and known what it was doing to our little hospitals we would not have voted it out unanimous 13.

It would have been unanimous "Ought Not to Pass" because I'm sure the people would have been in there screaming at us. So as disappointed as I am, we have to go along with the good Representative from Vassalboro, Thank you.

On motion of Representative MITCHELL of Vassalboro, the Bill and all accompanying papers were indefinitely postponed and sent up for concurrence.

SENATE DIVIDED REPORT - Majority (10) "Ought Not to Pass" - Minority (3) "Ought to Pass" as amended by Committee Amendment "A" (S-142) - Committee on Utilities and Energy on Bill "An Act to Facilitate Charging Electric Utility Customers Based on Actual Usage" (S.P. 31) (L.D. 61) which was tabled by Representative JACQUES of Waterville pending the motion of Representative KONTOS of Windham to accept the Majority "Ought Not to Pass" Report.

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

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

Representative LUTHER: Mr. Speaker, Men and Women of the House: This bill came to us and immediately, which had nothing to do with our committee, CMP had a disastrous program on their hands. They were getting nailed everywhere because of this program of estimating bills and on their own they decided that they would no longer do it. If we were still under the old rules, where you could withdraw a bill and get leave to withdraw, this would have been the perfect solution to this bill, but it's not.

If we kill this bill tonight and they decide that they want to go back to estimating bills there is nothing we can do to prevent that. If when we all go home and they start this again and we are all on record as having killed this bill, I don't know who we are going to answer to. I have had an awful lot of calls on this. Let me read to you from the statement of fact what the bill will do, this amendment completely replaces the bill. It allows customers the option of reading their own meters in lieu of utility estimates if the company decides to estimate your bill.

Companies must be permitted to report meter readings by telephone and there must be a 1-800 number available to them. The important part of the bill is it must allow customers who do not want their readings to be estimated to opt out of the program without penalty. I think that is very important. If

they are willing to do this than there is no reason not to have a law on the books that does what they are telling us they are willing to do this anyway. What I don't want to happen to me is to go home having voted to kill this bill and in August, have the company decide we're going to try it again only this time under a better plan.

Representative LUTHER of Mexico requested a roll call on the motion to accept the Majority "Ought Not to Pass" 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 Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: You can see from the divided report that there are others of us on the committee who signed the Majority Report that we're satisfied with the exclamations from CMP that their estimated billing procedure was a failed experiment. There is other statutory language that is within the PUC jurisdiction to govern the billing mechanism that any of the three major utilities use. One of the other major utilities does effectively use an estimated billing process without the same kind of outcry that we heard in the CMP service territory.

So for those of us on the Majority Report we felt that in this case CMP responded appropriately to their customers and we hope what was just predicted by the Representative from Mexico will not happen. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: It's hard for me to sit in my seat and deal with that committee over the years and hear that the area I come from does not have a problem with billing. I can assure you, coming from Millinocket, there is a problem out there and people don't know who to contact. They contact Bangor Hydro, they call the public advocate's office, they call PUC, and they call whoever they can.

There is a major problem out there getting your meter read. If you sit here and think there is no problem, you can count trees until the cows come home. There is a major problem out there. People being gorged through this reading process. If you don't think so, look at some of my bills, I call them constantly. A lot more people ought to be calling PUC. A lot more people ought to be calling the public advocate, but don't sit here and don't think there's a problem, cause there is a major problem out there and the consumer as far as I'm concerned is being ripped off.

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

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

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

Representative LOOK: Thank you. Representative Kontos, am I assuming correctly when I say this does effect all utilities?

The SPEAKER PRO TEM: The Representative from Jonesboro, Representative Look has posed a question through the Chair to the Representative from Windham, Representative Kontos. The Chair recognizes that Representative.

Representative KONTOS: Mr. Speaker, Men and Women of the House: The Representative from Jonesboro is correct in her assumption that it effects all utilities.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I just wanted to say that Representative Clark is not the only one who's experienced some questionable bills. Last month I had one that was 235 kilowatts in excess of the one before and it wasn't Christmas either.

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

Representative TAYLOR: Mr. Speaker, Men and Women of the House: Your committee considered this very carefully because you're talking about a lot of dollars. It's estimated at this point that there's about a \$400,000 dollar saving to the customers of Bangor Hydro. We didn't have anybody at our hearing that I can recall that testified against anything, but their concern with Central Maine Power.

They were very responsive long before we felt the need to pass this bill, Central Maine Power had withdrawn their project and I sense a greater sensitivity to the public. So rather than pass this bill that would impact all utilities, all your public utilities, I would ask you to give Bangor Hydro a chance to continue their program which has been primarily successful with some glitches as any cost saving program might be. So I urge you to support the "Ought Not to Pass" motion. Thank you.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: It's true that we heard that there would be a great savings, but it was very unclear to me just where the great savings was going to come from. When CMP wants to send me something, they sent me just a mass of papers and very often they send me a little envelope to send in my payment so I can't see that they are going to save very much of anything. What's more this does not say that they can not estimate bills, it says if you don't want them to estimate your bill you and opt out of the program without penalty.

I see nothing wrong with that, that does not impair any utilities and it gives us some protection. Also remember, that if we kill this bill tonight we won't bring it back next year if they do reinstitute estimated savings because we have killed it tonight and it will not be able to come before us again as an emergency. 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. 114

YEA - Aikman, Ault, Bailey, Benedikt, Bigl, Bouffard, Brennan, Buck, Bunker, Cameron, Carleton, Chartrand, Chase, Chick, Chizmar, Cloutier, Clukey, Cross, Damren, Davidson, Desmond, Donnelly, Dore, Driscoll, Dunn, Etnier, Fitzpatrick, Gamache, Gates, Gieringer, Gooley, Green, Greenlaw, Guerrette, Heeschen, Heino, Hichborn, Jacques, Johnson, Joseph,

Kerr, Kneeland, Kontos, Labrecque, LaFountain, Lemaire, Lemont, Libby JD; Libby JL; Lovett, Madore, Marvin, Mayo, McAlevey, McElroy, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nass, Nickerson, O'Neal, Ott, Paul, Peavey, Pendleton, Poirier, Poulin, Pouliot, Povich, Reed, G.; Rice, Ricker, Robichaud, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stedman, Stevens, Stone, Taylor, Thompson, Townsend, Treat, Tripp, True, Tyler, Watson, Wheeler, Whitcomb, Winglass, Winsor.

NAY - Ahearne, Berry, Clark, DiPietro, Farnum, Fisher, Gerry, Gould, Hartnett, Hatch, Jones, K.; Joy, Joyce, Joyner, Keane, Lane, Layton, Lemke, Look, Lumbr, Luther, Marshall, Martin, Meres, Perkins, Pinkham, Plowman, Reed, W.; Richardson, Rosebush, Rotondi, Strout, Tufts, Tuttle, Underwood, Vigue, Volenik, Waterhouse, Winn.

ABSENT - Adams, Barth, Birney, Campbell, Daggett, Dexter, Jones, S.; Kilkelly, Lindahl, O'Gara, Truman, Yackobitz, The Speaker.

Yes, 99; No, 39; Absent, 13; Excused, 0.

99 having voted in the affirmative, and 39 having voted in the negative, with 13 being absent, the Majority **"Ought Not to Pass"** Report was accepted in concurrence.

SENATE DIVIDED REPORT - Majority (9) **"Ought Not to Pass"** - Minority (4) **"Ought to Pass"** as amended by Committee Amendment "A" (S-119) - Committee on Utilities and Energy on Bill "An Act to Clarify the Intent of the Electric Rate Reform Act" (S.P. 253) (L.D. 691) which was tabled by Representative JACQUES of Waterville pending acceptance of either Report. - In Senate, Majority **"Ought Not to Pass"** Report read and accepted.

On motion of Representative KONTOS of Windham, the Majority **"Ought Not to Pass"** Report was accepted.

On motion of Representative O'NEAL of Limestone, the House reconsidered its action whereby the Majority **"Ought Not to Pass"** Report was accepted.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Limestone, Representative O'Neal.

Representative O'NEAL: Mr. Speaker, Men and Women of the House: I oppose the passage of the Majority **"Ought Not to Pass"** Report and with that I would like to share with you an editorial out of the Kennebec Journal dated May 5th. Utility competition is great but it must be conducted fairly on a level playing field. That is what is in doubt concerning a series of actions by Central Maine Power following its use of state backed FAME loan fund created last year by the Legislature. CMP used the fund to buy out an expensive contract with Fort Fairfield wood burning plant, because the plant represented such a large part of the local tax base, CMP made a strenuous effort to keep the plant running and succeeded, largely through price concessions by suppliers and lower staffing costs.

In turn it went looking for a buyer for the electricity and found Houlton a municipality which has an electric company. CMP succeeded in winning the wholesale contract from Maine Public Service. Was it fair competition? There's no doubt that CMP offered a better price, but it was able to do so primarily through the state subsidy loan fund. The Houlton case is now moved, both sides agree, but MPS would like to prevent similar episodes. Houlton

represented nine percent of its sales and asks the Legislature through L.D. 691 to require the DEP to consider harm to a ratepayer before approving such contracts.

The bill is being reported out by the Legislature's Utility Committee with a majority of **"Ought Not to Pass"** recommendations. That's too bad, because of the utilities great difference in size harm to Maine Public Service ratepayers may exceed gains to Central Maine Power. Because the state is directly involved through the use of its credit, it ought to try harder to make sure the playing field is indeed level. This is a bill that is a key word is fairness, if you allow the largest utility company in the state to go into another district and harm those ratepayers by the use of state money than that is wrong and that is why I oppose the pending motion.

Representative ROBICHAUD of Caribou requested a roll call on the motion to accept the Majority **"Ought Not to Pass"** 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 Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: L.D. 691 was a very difficult bill for the committee and the Representative from Limestone, Representative O'Neal is justifiably interested in this body's overturning the Majority Report. Let me tell you why those of us who are on the majority voted as we did. In order to help you understand that, I need to give you a little history. The electric rate stabilization act was passed by the 116th Legislature, you're somewhat familiar with this because of a request to increase that bonding indebtedness by the Finance Authority of Maine by a bill we passed earlier this session.

One of the unintended consequences of that action was that Central Maine Power took advantage of their money, they bought the Fort Fairfield Energy Plant and at the time they were encouraged by the Legislative delegation in that area to keep the plant operating. They did so and in order to make that a viable operation for Central Maine Power, they are selling some of the energy produced by that facility to customers that are currently in the Maine Public Service territory. Clearly, the committee that voted in the 116th on that act never imagined that one of the nine utility generators would be, in fact, bought out by one utility in the service territory of another, that is what I mean by an unintended consequence, but that, in fact, was what happened with that first amount of money made available to the electric utilities.

After a great amount of effort on the part of both Central Maine Power and Maine Public Service, we have an amended version which is the Minority Report that changes the language of the original bill in such a way to prevent direct sales from that plant to go to any other facilities or communities in Maine Public. The reason that's not as simple as it may seem is that we get into a whole variety of issues having to

do with is emerging as competitive electric market in this state.

Those of us who signed the Majority Report believe that continuing to try to make right what happened with the first action, using the electric rate stabilization act money was not a solution to the problem that saved Maine Public or the AVEC Plant in Fort Fairfield. That was not an easy vote for those of us on the Majority Report, any easier than it is for the people who are effected by the outcome, because you see it divides the people in that service territory. The people in Houlton have lower cost power because of their contract with CMP as a municipal water district. There are others who may also benefit from this transaction so you begin to see what happens, not only utility regulations, but all of public policy.

It's a bit like pushing on a water balloon, when you push on one side something happens on the other side. So it's a good deal for Houlton customers as a result of the transaction last year, but it is potentially a bad deal for other ratepayers in Maine Public. That's the kind of dilemma we deal with all the time and those of us who came down on the Majority Report felt that we were not in a position to continue to tinker with legislation that, in fact, begins to interfere with the competitive nature of the electricity market in this state.

It's a tough call, I admit that, I believe the Majority Report is right decision in this case, but I think you will also hear compelling arguments from the people that are effected in that service territory. I'll be happy to provide any additional information to help you make your decision.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I promise to be long winded and boring because this is a utility matter and they are very difficult to explain and comprehend. I'm grateful that the good Speaker Pro Tem allowed people to take their coats off. Let me start off by continuing the brief history that Representative Kontos gave on this bill. Rates in all three service territories are too high. There were contracts that were signed and the Public Utilities Commission forced companies to sign or encouraged them by means of threatening them with fines if they did not sign contracts with non-utility generators.

At the time it seemed like a prudent move when the price of oil was predicted to be over \$100 a barrel by this time. Well that prediction was made by economist and I heard one person describe an economist's prediction kind of like the weather. It's got as much a chance of being right as wrong. So that was wrong, but there were still contracts out there that had high price generation of electricity that all these companies had contracts with. So you take that to the next step, there was a big movement here to tax those non-utility generators to punish them for signing a contract that was beneficial to them and their stockholders because they wanted to make money while operating a business, ooh terrible thing.

What came out of this long compromise, that the committee worked many hours on, was a method to stay helping since we helped these two private industries enter into a contract that everyone thinks has been bad for the consumer. Not bad for energy mix, but

bad for the consumer on the price of it. That we thought, the committee at the time, and I was there guilty as charged that the state through FAME came in and offered a mechanism of financing by-down and as a last resort buy-outs of these contracts. Well than came my summer from hell. Where Central Maine Power, in an attempt to lower the rates for its consumers made a prudent business decision to buy out a contract with the wood burning plant in Fort Fairfield, Maine a town not too far from where I live.

There would be 40 jobs lost in that small plant, but the extended consequence was now our Department of Environmental Protection fines lumber mills for disposing of wood waste. They have a certain amount of land that they could use to get rid of their wood waste so what better way to get rid of their wood waste except to burn it and generate electricity. So there was some genius to keeping these things open as well as being expensive. During the summer from hell and spending most of my time in the car and in Fort Fairfield driving down and talking with people who were not happy with me for having voted on something to help people in Central Maine Power service territory lower their rates.

We came to an agreement through the Public Utilities Commission that Central Maine Power and the town of Fort Fairfield entered into an agreement that gave six months to make sure that this plant could operate efficiently and at a cost that was reasonable. They've met that goal. As a matter of fact, they have done it so well, that now they are blowing the local utilities in that district's doors off when it comes to operating. Now the way utilities operate is you have a large capital cost that you are required to build so that you can operate. You're not allowed to have brownouts or you're not suppose to have brownouts or blackouts because too many people are drawing off your power source.

So we have to build to the market and make predictions on growth and stay ahead of that growth. Here we go into the decline, the spiralling effect that this will have on Maine Public Service which is the utility that services northern Maine. Maine Public Service loses Loring Air Force Base, it's about 10 percent of its load. Fortunately, a mall was built in Presque Isle, which takes up some of that slack. So they don't get hurt as bad, but there is a rate increase to make up part of the capital cost on that.

Central Maine Power negotiates bids fairly on a contract with the town of Houlton. Houlton gets a great deal, ratepayers in that municipality get lower electric costs except its nine percent of the load of total Maine Public Service. So what that does is it increases the rate for every other consumer in that territory. Now do you understand what I mean by summer from hell and how we are spiralling, it just gets worst. What the bill was trying to do, the intention and there was some language changes and I think there were some compromises being worked on. What the bill was trying to do is say okay, this was an unintended consequence, to borrow a phrase from Representative Kontos of the action the former Legislature took.

So why don't we contain it to where it is today and figure out where to go from here, as opposed to allow this death spiral of an efficient, effective small utility in northern Maine to get beat up on by taxpayer dollars which allow this whole transaction

to start with to help consumers in Central Maine Power territory.

I move that the bill and all accompanying papers be recommitted to the Committee on Utilities and Energy and I do so in hopes that there will be a compromise worked out and I do so in saying that Central Maine Power and Maine Public Service were a hair away from having a compromise, but Central Maine Power did not believe they had to compromise because they believed this body would vote with them. I think this body is here for fairness, I think this body will vote to recommit this bill.

Representative DONNELLY of Presque Isle moved that the Bill and all accompanying papers be recommitted to the Committee on Utilities and Energy

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

Representative TAYLOR: Mr. Speaker, Men and Women of the House: I urge you to support the Majority "Ought Not to Pass" Report. The Electric Rate Reform Act was intended to assist three major electric utilities in Maine to get out from under some very expensive power contracts. Since the contracts were forced on the utilities by state and federal policy, it seemed reasonable to allow FAME to back the credit to make these buy-outs or buy-downs. It was never intended that the legislature would try to regulate competition between two of the major power companies.

This amendment L.D. 691 would try to do that. We want competition to help lower rates. It's beginning to work so let's stand back and let it happen. Again, please support the Majority "Ought Not to Pass" Report. Thank you.

Representative TAYLOR of Cumberland requested a division on the motion to recommit the Bill to the Committee on Utilities and Energy.

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

Representative KONTOS: Mr. Speaker, Men and Women of the House: I wasn't advised by Representative Donnelly that he was going to make this motion so it catches me a bit off guard. My initial reaction is when I look at the schedule established for us by leadership the number of bills still before the committee where action is required. I'm a bit puzzled in trying to anticipate or even wonder what would be accomplished by recommitting the bill. So I guess my question through the Chair would be, back to the Representative from Presque Isle, what outcome might be expected to be achieved from recommitting the bill.

The SPEAKER PRO TEM: The Representative from Windham, Representative Kontos has posed a question through the Chair to the Representative from Presque Isle, Representative Donnelly. The Chair recognizes that Representative.

Representative DONNELLY: Mr. Speaker, Men and Women of the House: May I make an inquiry of the Chair.

On motion of Representative MITCHELL of Vassalboro, tabled pending the motion to recommit to the committee on Utilities and Energy and later today assigned.

On motion of Representative BAILEY of Township 27, the House reconsidered its action whereby Resolve, to Strengthen Fish Hatchery Capacity within the State by Establishing a Partnership between Public and Private

Organizations (S.P. 365) (L.D. 991) (C. "A" S-116) was finally passed.

On further motion of the same Representative, the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 991 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-116) was adopted.

The same Representative presented House Amendment "A" (H-298) to Committee Amendment "A" (S-116) which was read by the Clerk.

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

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: This amendment does nothing more than add three members more to the study committee. One appointed by the Speaker of the House, one appointed by the President of the Senate and one public member appointed by the Governor. The two members appointed by the President and the Speaker of the House would be legislators. Thank you.

House Amendment "A" was adopted.

Committee Amendment "A" (S-116) as amended by House Amendment "A" (H-298) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-116) as amended by House Amendment "A" (H-298) thereto in non-concurrence and sent up for concurrence.

House Divided Report - Committee on Legal and Veterans Affairs - (8) Members "Ought to Pass" as amended by Committee Amendment "A" (H-279) - (4) Members "Ought Not to Pass" on Bill "An Act to Establish the Maine Outdoor Heritage Fund" (I.B. 3) (L.D. 717) which was tabled by Representative NADEAU of Saco pending his motion to accept the Majority "Ought to Pass" as amended Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gorham, Representative Labrecque.

Representative LABRECQUE: Mr. Speaker, Ladies and Gentlemen of the House: This bill creates the Maine Outdoor Heritage Fund through a special instant lottery ticket. A board will be set up to make grants. Thirty-five percent will go to Fisheries and Wildlife for habitat conservation, 35 percent to the acquisition of public lands and access to be used for outdoor recreation sites and facilities, 15 percent for natural resources, law enforcement, and 15 percent for endangered and threatened species conservation projects.

I do not have a problem with collecting and distributing money in these areas. This is a very worthwhile endeavor. I do have a problem, however, with the money and how it is to be, if you will, earned through gambling. Let me tell you, I am probably the pot calling the kettle black, because I do gamble, but I do think it's wrong to become so dependent on money derived through gambling. I've been involved in many fund raising projects where lots of hard work, long hours have resulted in minimal monetary returns.

When this bill was presented to committee, the first thought I had was what a simple easy way to

make money for a very worthy project, but upon a closer look, I saw a more serious concern. If we allow this special lottery, what worthwhile project will come along for our further consideration. If this passes, how can we justify turning away others. As I said before, we are very dependent upon our gambling money. Special dedicated lotteries will undermine our present lottery system. There are ways, yes more involved, and more time consuming but non the less, there are ways even for a project of this length and size to raise funds. I urge you to vote against the pending motion so we can pass the "Ought Not to Pass" motion. Thank you for your attention

Representative LABRECQUE of Gorham requested a roll call on the motion to accept the Majority "Ought to Pass" 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 Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Men and Women of the House: First thing I think we need to establish is that this piece of legislation is an initiated piece of referendum material. The rules of this particular game are that if the Legislature does not pass this issue than it will go on the ballot in November. You ought to know that right up front.

The reason that the proponents here, and believe me it's really an interesting group, when you can get the Sportmen's Alliance of Maine and you can get the so called tree huggers together on the same coalition, you're really talking here and that's exactly what we have. The reason why these folks really wanted to see us act affirmatively on this bill is because quite, frankly, they don't want to go through an expensive campaign to put a question on the ballot this fall. Pure and simple. That's the reason. Now it's also critical to understand that this is not necessarily the appropriate time and place to talk about the merits or lack thereof of gambling or of, in this particular case, taking a specific lottery game and earmarking those funds, if in fact, you're concerned about what a future legislative body may or may not do or what precedent we may be setting. I won't be here in two years. I don't think I should be making a recommendation on what some of you who may be here in two years ought to do if a particular situation occurs. I'm not really sure that I'm all that worried about that.

One of the things that I myself, or any of us who are getting termed out of here, have to realize is that this place operated pretty well before we got here and it will probably do fairly well after we leave. I'm not really concerned, I'm not really worried about the collective brain power that we're going to have in this legislative body. That I think will take care of its self. The issue in front of you is simply to shelve this legislature, place the so called blessings of its self upon this lottery game which will be where the funds will be earmarked to the conservation and related activities, that's the issue.

This group unfortunately has always been under funded and quite frankly, two years ago when they thought they had a real good idea, somewhere along the line, somebody in the administration decided well we'll just kind of shift the funds that we're suppose to be gaining in one place onto another. So the net result was actually that they lost money. This Legislature had to correct that error. This bill before you right now is simply a way for them to generate their own money and not go out and ask for an additional expenditure here and there. That's quite simply what it is.

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

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

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

Representative STONE: Thank you. I've read the amendment and I've looked at the bill and I guess I need some information from somebody. The fiscal note says there's going to be over the biennium a \$2 million dollar shortfall to the general fund, which to me implies that they don't anticipate selling anymore lottery tickets than what they would normally sell and it's actually going to rob Peter to pay Paul. So that's my first concern and my second concern is whether or not this bill really circumvents the Appropriations Committee rather than going to them and saying we want you to take \$2 million dollars from the general fund and put it here. They are trying to go around Robbins Barn to get the money.

The SPEAKER PRO TEM: The Representative from Bangor, Representative STONE has posed two questions through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Men and Women of the House: Representative Stone, I can assure you, and anybody else who is thinking the same question, I can assure you we spent a lot of time thinking are we in fact going to ruin or negatively impact other lottery games. That answer has been reflected in this fiscal note, believe me that debate did happen and it happened for quite a long time. As far as circumventing the Appropriations Committee, I don't necessarily think that's the case because quite honestly, there is nothing that says that if any group, and it could be you or I, if we went to the appropriations committee and asked for \$20 dollars right now they would simply say, "We ain't got it, it is not going to happen." So I think that particular question is almost irrelevant because, how can you take zero from zero. It's just almost a non question.

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

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House: I'm also on the Legal and Veterans Affairs Committee and I don't think there is anyone on the committee that isn't convinced that if we indeed pass this bill that it will be a success in terms of earning money. I don't think there is anyone on that committee or indeed anyone in this Legislature would disagree that the Conservation Department is probably one area that indeed needs funding. When you consider the loss of funding they've had in the last several years.

My concern is if we indeed pass this, what's going to happen next year after it's become successful.

We're going to have the Education Department come to us and we're going to have an Education Instant Ticket, we'll have a Highway Instant Ticket, we'll have a Lobstermen's Instant Ticket, and it will go on and on and on. I don't think it is good tax policy for us to provide funding for state agencies through the use of lotteries. In addition to that, several weeks ago, last week we debated on this floor the issue of tax policy and how we would address that. We talked about gimmicks and if we look at this in terms of gimmicks, I would suggest to you, that this indeed is probably the patriarch of all gimmicks. Thank you.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: This bill is certainly not within the purview of my committee, but I do represent a lot of people in the state of Maine and I rise to oppose this on two distinct positions.

First of all, I don't think that we should be raising money by the lottery system. We already have more lotteries than we know what to do with, the amount of funds that came in to those. We were promised that those were going to raise a lot of money to be dedicated toward education. Those promises and the expectations have never been realized. The amount of money that has gone to education is really a proverbial drop in the bucket when we consider the total cost of the education programs in this state. If we add this lottery to the picture than the monies that are left for other things are going to be reduced.

We're already heard that somewhere in the neighborhood of \$2 million dollars is going to be deappropriated from the general fund. I don't think that we can afford that given the situation that the state's finances are in. Second, I have a very, very big problem with the state buying up land. The last time that I checked, the people are the state of Maine. What's happened in the instances where the state has purchased land for the people. The first thing that has happened, the jurisdiction of this is turned over to one state agency or another and they develop all kinds of rules which severely restrict the access of many people to those lands.

A classic example of this can be found up in my area that I drive by every time I go back and forth to the house and that's Baxter State Park. Governor Baxter set aside Baxter State Park, that great wilderness park that we have up there to be preserved forever wild for the people of Maine. I wonder how many of you happened to watch the news early in January and saw the pictures of those people of Maine who had to stand in line all night long in sub-zero weather to get reservations to go to their own park that was preserved forever wild for the people of Maine. I think that paints a pretty poor picture.

Recently, Togue Pond area was incorporated or swallowed up in the park, many individuals had camps in that area and they are now faced with restrictions so severe that it's taken most of the enjoyment of their going to their summer cottages away from them. The path which existed between two camps that were nearby they have trouble now because they want to mow that path and keep it mowed, park restrictions don't allow them to do this. This is what happens when we find ourselves in the situation where the state is using funds to buy up land.

Another example of the forever wild, I'll give you an illustration of what happened to me probably three years ago. Some friends of ours were up from New Hampshire and they wanted to drive around Baxter State Park. So we took the perimeter road and we went into South Branch Pond which is probably one of the most beautiful jewels that exists in the state of Maine. In the parking lot there were about 60 vehicles, I was in a New Hampshire car so that was an out-of-state vehicle there. The only Maine license plate in the park was on the ranger vehicle. Is this forever wild for the people of Maine? I don't think so. Another thing I had to wonder at that particular time was what night did those people stand in sub-zero weather to get a reservation to go to the park. I don't object to sharing the beauty of the state of Maine with our neighbors from the other states but I certainly do resent the fact that forever wild for the people of Maine is not what we really have now in Baxter State Park.

When I was young, we used to go to Baxter State Park just on a moments notice and you could always go up and there was always picnic areas that were available and the whole family could get together, you could play games, you could hike the trails, today you can't do that. I think that this is something that we have to keep in mind any time that we start thinking about the state using monies to buy land to keep in perpetuity for the people of Maine. I don't think it's going to happen quite the way people anticipate its going to. I urge you to defeat the "Ought to Pass" motion and accept the "Ought Not to Pass" motion. I think it's a sad day when we are faced with kind of a political blackmail which says that if we don't pass this bill here, it's going to go out to the people. I think we need to let the people speak in many situations like this. Thank you.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: This for once is actually a statement that is accurate, I hadn't planned to speak tonight, but after listening to the remarks of the Representative from Crystal, Representative Joy, I just felt that the memory of Governor Baxter, at least ought to be preserved. That land is not state land. The state did not purchase Baxter State Park. Governor Baxter used his own money, bought the land and created a trust and it is that trust under which we operate Baxter State Park. Provisions of the trust require that there be three persons responsible for handling the trust. The Attorney General, the Commissioner, of what used to be the Commissioner of Forestry, but now the Director of Forestry, and the Commissioner of Inland Fisheries and Wildlife. Those three individuals are responsible under the trust.

The money that operates Baxter State Park comes from the trust or from fees that are raised through the use of the park. The reason why restrictions have been imposed is because of the number of people who now want to go to Baxter State Park. There are restrictions in the trust which must be followed and we have no choice. There are those of us in northern Maine, a number of years ago who wanted to have snowmobiles to go through that park. It went all the way to the Supreme Court and the trust had to be followed. Very clear. We have no alternative.

Frankly, I congratulate the late Governor Baxter. Now the other side of that coin, our private land owners, I happen to own a business beyond, in the so

call north Maine woods. On Tuesday, I was informed that between the hours of ten and six o'clock in the morning, the gates will be locked and if I want to go through the gate, I pay \$10 dollars to wake up the person so I could go through. Who are we kidding? Now you think that's of interest to the people in my district, we have no choice. Needless to say, some of us have raised a little hassle with north Maine woods and needless to say, those who work in the woods who are in the woods before six o'clock in the morning aren't particularly happy about that. Granted the Representative from Crystal moved in the direction of Millinocket and that's Great Northern the Division of Bowater and I don't know what the new rules are, if any, but for those of us in northern Maine we have new rules that have been imposed upon us by landowners.

I would point out that on this board that controls north Maine woods is a Representative of the state of the Maine, who has a vote and I'm curious to know when that vote was taken and how they voted and what interest they were representing when they proceeded to impose that. I don't want to get involved in the battle of lotteries, heaven forbid, that's one of those that you can't win. I do know this, that I will forever fight for public access to Maine waters wherever they are and that ought to be our bottom line. It is the people of Maine that own the water and the low water mark and that's a right that we cannot and should not ever give up. We will be talking more about that because I have a bond issue that deals with that whole question.

I do want to leave you with one thought for a moment, if I can bore you with another particular item. I have a community in my district that in the thirties when they got tax acquired property they decided that they weren't going to put in on the market. They own 10,000 acres of forest land plus the 1,000 of the public lot. Guess where their taxes are. Guess how much money they've got in the bank, it would make most communities in Maine look sick, because they have been very careful and frugal about how their land is cut, they believe in multiple use and so there is something to be said about public ownership, when properly administered. I don't know how I'm going to vote yet on this issue, no one has convinced me either way, but I just had to rise in the memory of Governor Baxter.

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

Representative JOHNSON: Mr. Speaker, Ladies and Gentlemen of the House: On this matter of restrictions, my experience is with Casco Bay and sailing for many years among the islands of Casco Bay, many years ago when you could land on any island and walk anywhere and camp in any way you wanted to camp. You simply cannot do that anymore.

My favorite island is Jewel Island and as I'm speaking, I'm reminded that this is my 20th wedding anniversary and we were married out on Jewel Island and what I'm doing here tonight, I don't know. My wife doesn't know either. We were married out on that very beautiful island 20 years ago and at that time there were no restrictions and now you must have restrictions. The state does come in and if you are camping, they want to make sure that you're not hurting the earth on those islands is very fragile, it's not deep. You can not simply use these islands as your bathroom anymore. You can't simply use these

islands as garbage waste ground anymore. You simply can not just walk where you want to walk because there are too many of us, ladies and gentlemen, and when there get to be too many of us we all become good stewards and one of the good stewards of this state are you and me and the way we use our funds to protect our land. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Madison, Representative Rotondi.

Representative ROTONDI: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you support the Majority "Ought to Pass" Report as amended. The Maine Outdoor Heritage Fund would be a voluntary tax freeway to bring desperately needed dollars to wildlife and conservation projects. I'm sure you all know that Fisheries and Wildlife gets no state money, it's license fees and federal money or voluntary donations. If this fund is created 35 percent of the money would go to Fisheries and Wildlife and habitat conservation, 35 percent acquisition of public lands and parks and wildlife conservation and 15 percent to game warden support, which we know that we all need. We need more money for that. Fifteen percent to endangered and threatened species. Money could be used to provide more access to fishing areas by purchasing easements to rivers and repair park facilities, maybe people who don't currently buy lotteries would buy them to support conservation to support wildlife. We know that Maine people care about their outdoor heritage and natural resources and that our economy and quality of life depend on them. I hope that you support the "Ought to Pass" Report.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: As I hear of all the noble purposes and causes that this money is going to go to, I'm feel compelled to ask the question, why than do we fund them through a lottery? Why trivialise these conservation measures, these great access to the wild places of Maine that we're heard people talk about with a lottery? It just doesn't seem to make sense. It just seems to me that if this was, and I believe yes, it's great noble purposes we ought to be funding them with the same sort of commitment that we fund schools and the Judicial Department and I guess I look at lotteries and sometimes I look at license plates and I just see them as aspects of government that trivialise the great noble things that we do here.

One of my constituents actually called me on this and urged me to vote for it and said that he's not a lottery player, but if this one existed, he'd be a lottery player. I asked him why don't you just cut a check for \$10 dollars and send it to the state of Maine because that to me would be more of a gesture of commitment. I'd ask you to vote against the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Men and Women of the House: I'm speaking for myself here, I really didn't pay much attention to this bill until it came up on the floor here today, but I have some of the same questions that Representative Hartnett had. It appears to me that by establishing this lottery, since there's a fiscal note on this bill, a rather large one, there will be an effect on the

general fund a reduction in the amounts that are going to be received by the general fund.

We're engaged at this point in the process of appropriating money for the general fund and that whole process is a process of setting priorities for what we want to do. I am sure that everybody who gets state money would love to have some means by which they could have money dedicated for that particular use, and again, the use set forth in this bill might be the best use in the world. I simply don't know, but I wonder whether it's good policy for us to go and to say that we're going to insulate a particular program or a particular expenditure of funds from the normal business that we go through each year of determining just what the state's priorities are going to be. It appears to me that the funding mechanism for this particular purpose, which is the lottery, is designed to do that.

I'd like to point out in section six of the bill that we have this statement. It is the intent of this legislation that a grant received from the fund not be considered a substitute for funds previously appropriated or allocated to a natural resources agency. To me, what that says, is that we pass this bill and we dedicate this money and this money is going to have no effect on the normal appropriations process that we go through. It's exempt from our review and priority settings activities in each Legislature. I express no opinion on the bill, but I just wonder whether or not this is good policy to dedicate funds in such a manner.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of this bill. I'm going to try to tell you why I do, even though my good leader in the corner is against it. This bill creates a Maine Outdoor Heritage Fund, funded by a new wildlife lottery game to support fisheries and wildlife, acquisition and management of public lands, parks and public access areas, endangered and threatened species, conservation projects and natural resources law enforcement. I think those of us who saw what some of the land for Maine's future bought, I know that in the part of the state that I come from the land is being built up and there's very few places left.

The land's for Maine's future bought the whole top of Mount Agamenticus the parks recreation takes care of it. They have done an excellent job. It was nice to go up there before but now it's even nicer. It's a place for a hot summer night, in my case, take your grandchildren and go up there and you can just let them run wild right down there and enjoy it. You can go up on the lodge and look over the whole coast of Maine and see the lighthouse. As far as the fiscal impact is concerned, I think that has been greatly overstated. For the simple reason, this has been put out to the people and there's 53,000 people in this state who said that they would like to do this and 53,000 people, I'm sure, will support it. So that is probably a lot of new players. The people who are interested in the conservation will make sure they buy these lottery tickets.

When I first saw this bill and sat to listen to it, I thought, I don't know about this. I've got to think this one over. The more I heard them talk and the more I read of the bill, the more I was convinced that this was not such a bad idea to go, because there are some of us who have that little gambling in

them. I like to gamble. I don't gamble big time, I gamble in the state lottery, that's my only gamble, but I still gamble every week. I buy a ticket every single week. If it's up high and I don't happen to get my ticket, I panic and I rush out and get it even if it's the last minute. So there are people like me in this state who do like to gamble like that. I feel as though when I'm gambling through the state lottery, I always say when I lose, "Oh well, I donated \$5 dollars to the state. No big deal." I feel as though if I'm going to gamble, that's a good place to waste my money. That's the way with this.

I have never bought the instant tickets, but with this I probably will buy them, because I'll figure well I'm supporting a good cause and I will be supporting some parks and recreation areas, maybe where other people can take their grandchildren as I take mine, because the people of Maine voted bond issues to do that. I think we have the support of the Maine people behind us. I would urge you to really think this over and support this measure. I think it's a good idea and we've already declared in this state that we don't mind lotteries and we don't mind to have people gamble so that is not an issue in this, as far as I'm concerned. The issue here is we do need money for the Department of Conservation and I'm not sure that any of us would ever find that kind of money in the state budget. We just don't seem to stop and think that these are things that are really important to the people out there. We keep raising taxes and raising money for whatever ridiculous reason and we don't do it sometimes for the real good reasons. I urge you to support this measure, Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Belgrade, Representative Damren.

Representative DAMREN: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will consider your vote very carefully and vote for the "Ought to Pass" on this bill. Very few bills come to you with the signature and support of 53,000 voters. Another thing, you do realize that in the economic times we have, public lands, parks, and wildlife conservation programs can't compete in Augusta with health, education and human needs. We must look outside normal channels of tax revenues to fund these programs which are terribly under funded at this time. Although Maine people care very deeply about their outdoor heritage and natural resources, their tax dollars go elsewhere. All I ask is that you please support the "Ought to Pass" Report. Thank you.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I would like to reconvene this conversation on the fiscal note and begin once again where some questions had come up on the fiscal note on this bill. Let me start off that I had followed this when the first draft of the fiscal note came out it was over \$4 million dollars and in review after we pointed out to the Lottery Commission that their own projections on the dollar game were showing a decline before this game was introduced. They sat down with the members of the executive branch and our staff and downgraded that fiscal note. As far as the fiscal note is concerned, let me continue to say that our staff and the committee, I believe, in the end will have to budget this money under either circumstance.

If we send this out to referendum, or if we pass it here today, the fiscal prudent thing to do is assume that we will be spending that money. If we don't, if it's defeated at referendum, it's a windfall. There is some question about trivialising the great outdoors by putting them on a scratch ticket. I don't think it's much more trivial than a license plate and that seems to be fairly popular if you drive up and down the highways these days.

The Representative from Wells mentioned the language that substitutes, you can not substitute money which goes to this department, with other money. That's to prevent the loon plate money scam from happening with the lottery ticket money. It's to make sure that constitutionally protected money doesn't get caught in a shell game. It is to follow up, once again, on the policy portion of it, it was a policy that was actually enacted by the voters of the state when they enacted a Constitutional Amendment to these departments and the money that goes into them. As well as 53,000 members of that public signing this petition.

I think, the choice we have here today, is do we want to save the money of paying for this to go out for referendum, since we have already taken care of the fiscal note because it's going to happen either way. The public policy issue, I think has already been decided by the people of the state of Maine. Substituting money is to prevent something that the people were irate about that happened in the last budget. I think it really boils down to do we want to spend the money to put this on the ballot or not. My guess is, it will pass out in the public anyway. Thank you.

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

Representative TRUE: Mr. Speaker, Colleagues of the House: I urge you to support this bill and as you will note that I voted in the Majority "Ought to Pass". It is too bad that perhaps we have to again have a gambling, something dealing with gambling to support what we as citizens should support. But we've got to look at the era that we're in and the economic circumstances we're in. Thank goodness for the lottery or we would be appropriating much more money for education. If you look at the amount of money coming in to the lottery and the amount of money going out to education, I doubt very much if appropriations could find that money anywhere, in order to support education, even the way that we are doing it today.

The money that the Appropriations will approve is start-up and if again, being a student of history, if you want to look at the history of lottery, I don't believe we've had a lottery game yet that lost money and so that too ought to be thought of. I believe that hopefully in the future that we will be in better economic circumstances and maybe we can do away with some of these things and will not have to rely on the money coming from the lottery to support some pretty wonderful programs. If we are so against the lottery, why hasn't this body passed a law that which dissolves it. I would like, if it has not already asked, for a roll call please.

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

Representative GOOLEY: Mr. Speaker, Men and Women of the House: I just wanted to say a few words about Maine and our vast natural resources that we have here in the state, we're very proud of them and we

need to manage them carefully. The amount of public lands that we have here in the state at present time are probably insufficient for what the demand is, I think that's already been discussed. I support this bill. I also wanted to mention about another state that did something, Missouri, back 20 years ago, they passed one eighth of one cent sales tax and that sales tax money, \$35 million dollars a year, this was 20 years ago, must be more now goes for public land acquisition and for administration of conservation programs and also for parks management. So out in Missouri they have money earmarked directly for conservation activities including public land acquisition. So that's what another state has done, we haven't done that, so maybe that's an opportunity for us in the future, but for now I would support this bill.

The SPEAKER: A roll call has been ordered. The pending question is the motion from the Representative from Saco, Representative Nadeau, that the House accept the Majority "Ought to Pass" Report. A roll call having been requested and ordered. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 115

YEA - Ahearne, Ault, Bailey, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Chartrand, Chase, Chizmar, Clark, Cloutier, Cross, Daggett, Damren, Davidson, Desmond, Donnelly, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gates, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Hatch, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kontos, LaFountain, Lemaire, Lemke, Lemont, Libby JD; Libby JL; Lovett, Luther, Madore, Martin, Marvin, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nass, Nickerson, O'Neal, Paul, Peavey, Poulin, Povich, Reed, G.; Reed, W.; Richardson, Rosebush, Rotondi, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Strout, Townsend, Treat, Tripp, True, Tufts, Tuttle, Tyler, Vigue, Volenik, Watson, Whitcomb, Winn.

NAY - Benedikt, Buck, Carleton, Chick, Clukey, Gamache, Guerrette, Hartnett, Heeschen, Heino, Joy, Joyce, Joyner, Kerr, Kneeland, Labrecque, Lane, Layton, Look, Lumbr, Marshall, Mayo, McAlevey, McElroy, Ott, Pendleton, Perkins, Pinkham, Plowman, Poirier, Rice, Ricker, Robichaud, Simoneau, Stedman, Stone, Taylor, Thompson, Underwood, Waterhouse, Wheeler, Winglass, Winsor.

ABSENT - Adams, Aikman, Barth, Birney, Campbell, Dexter, DiPietro, Jones, S.; Kilkelly, Lindahl, O'Gara, Pouliot, Spear, Truman, Yackobitz, The Speaker.

Yes, 92; No, 43; Absent, 16; Excused, 0.

92 having voted in the affirmative and 43 voted in the negative, with 16 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-279) 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.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-279) and sent up for concurrence.

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

SENATE DIVIDED REPORT - Majority (9) **"Ought Not to Pass"** - Minority (4) **"Ought to Pass"** as amended by Committee Amendment "A" (S-119) - Committee on **Utilities and Energy** on Bill "An Act to Clarify the Intent of the Electric Rate Reform Act" (S.P. 253) (L.D. 691) which was tabled by Representative MITCHELL of Vassalboro, tabled pending the motion to recommit to the Committee on **Utilities and Energy**.

Representative DONNELLY of Presque Isle withdrew his motion to recommit the Bill to the Committee on **Utilities and Energy**.

On motion of Representative MITCHELL of Vassalboro tabled pending the motion of Representative KONTOS of Windham to accept the Majority **"Ought Not to Pass"** Report and specially assigned for Thursday, May 25, 1995.

On motion of Representative LIBBY of Kennebunk, the House adjourned at 8:10 p.m., until 9:30 a.m., Thursday, May 25, 1995.