

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
49th Legislative Day
Tuesday, May 30, 1995

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

Prayer by Reverend Holly Lyman Antolini, St. Brendan the Navigator Episcopal Church, Stonington.

National Anthem by the Oxford Hills High School Vikettes and Viking Voices and Jazz Band, South Paris.

The Journal of Thursday, May 25, 1995 was read and approved.

SENATE PAPERS

Ought to Pass as Amended

Report of the Committee on Taxation reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-153) on Bill "An Act to Amend the Maine Tree Growth Tax Law" (EMERGENCY) (S.P. 64) (L.D. 93)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-153) as amended by Senate Amendment "B" (S-185) thereto.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-153) was read by the Clerk. Senate Amendment "B" (S-185) to Committee Amendment "A" (S-153) was read by the Clerk and adopted. Committee Amendment "A" (S-153) as amended by Senate Amendment "B" (S-185) thereto adopted and the Bill assigned for second reading Wednesday, May 31, 1995.

Divided Report

Majority Report of the Committee on Business and Economic Development reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-158) on Bill "An Act to Amend Real Estate Appraisal Licensing and Certification Laws" (S.P. 168) (L.D. 429)

Signed:

Senators: HARRIMAN of Cumberland
CIANCHETTE of Somerset
GOLDTHWAIT of Hancock

Representatives: ROWE of Portland
BRENNAN of Portland
DAVIDSON of Brunswick
KONTOS of Windham
REED of Dexter
SIROIS of Caribou

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

Signed:

Representatives: BIRNEY of Paris
CAMERON of Rumford
LIBBY of Kennebunk
POVICH of Ellsworth

Came from the Senate with the Majority **"Ought to Pass"** as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-158).

Was read.

On motion of Representative ROWE of Portland, the Majority **"Ought to Pass"** Report was accepted.

The Bill was read once. Committee Amendment "A" (S-158) was read by the Clerk and adopted. The Bill was assigned for second reading Wednesday, May 31, 1995.

Divided Report

Majority Report of the Committee on Transportation reporting **"Ought Not to Pass"** on Bill "An Act to Broaden the Scope of the Farm Registration Laws to Include Farm Woodland Trucks" (S.P. 243) (L.D. 640)

Signed:

Senators: STEVENS of Androscoggin
PARADIS of Aroostook
CASSIDY of Washington
O'GARA of Westbrook
RICKER of Lewiston
DRISCOLL of Calais
BOUFFARD of Lewiston
STROUT of Corinth
BAILEY of Township 27
HEINO of Boothbay
LINDAHL of Northport

Representatives: Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-170) on same Bill.

Signed:

Representatives: FARNUM of South Berwick
CHARTRAND of Rockland

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

Was read.

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

Divided Report

Majority Report of the Committee on Labor reporting **"Ought to Pass"** on Bill "An Act to Authorize Municipalities to Pay Employees Biweekly" (S.P. 259) (L.D. 695)

Signed:

Senators: BEGLEY of Lincoln
MILLS of Somerset
JOY of Crystal
JOYCE of Biddeford
PENDLETON of Scarborough
STEDMAN of Hartland
WINSOR of Norway

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

Signed:

Senator: RAND of Cumberland
Representatives: HATCH of Skowhegan
CHASE of China
LEMAIRE of Lewiston
SAMSON of Jay
TUTTLE of Sanford

Came from the Senate with the Majority **"Ought to Pass"** Report read and accepted and the Bill passed to be engrossed.

Was read.

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

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

Divided Report

Majority Report of the Committee on Legal and Veterans Affairs reporting **"Ought to Pass"** on Bill "An Act to Require That a Vacancy in a County Office

Be Filled by an Appointee from the Same Political Party" (S.P. 390) (L.D. 1067)

Signed:

Senators: MICHAUD of Penobscot
FERGUSON of Oxford

Representatives: NADEAU of Saco
MURPHY of Berwick
BUCK of Yarmouth
LEMONT of Kittery
CHIZMAR of Lisbon
FISHER of Brewer
GAMACHE of Lewiston
LABRECQUE of Gorham

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

Signed:

Senator: STEVENS of Androscoggin
Came from the Senate with the Majority "Ought to Pass" Report read and accepted and the Bill passed to be engrossed.

Was read.

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

The Bill was read once. The Bill was assigned for second reading Wednesday, May 31, 1995.

Non-Concurrent Matter

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) on which the Majority "Ought to Pass" as amended Report of the Committee on Human Resources was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-267) in the House on May 24, 1995.

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

The House voted to Adhere.

Non-Concurrent Matter

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1995 (EMERGENCY) (H.P. 1098) (L.D. 1542) which was passed to be engrossed in the House on May 23, 1995.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-174) in non-concurrence.

On motion of Representative CLARK of Millinocket, the House voted to Adhere.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

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

Natural Resources

Bill "An Act to Amend the Emergency Planning and Community Right to Know Laws" (H.P. 1107) (L.D. 1555) (Presented by Representative JACQUES of Waterville)

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

Recognizing:

Ronald Otis, of Brunswick, recipient of the 1995 Jefferson Award for Outstanding Community Service for his distinctive service to his community. We acknowledge his unselfish contributions to the people of Brunswick by coordinating the distribution of food at the Soup Kitchen, which served more than 4,000 people in 1994; (HLS 314) by Representative TRIPP of Topsham. (Cosponsor: Senator HARRIMAN of Cumberland)

On objection of Representative TRIPP of Topsham, was removed from the Special Sentiment Calendar.

Was read.

On motion of Representative JACQUES of Waterville, tabled pending passage and specially assigned for Wednesday, May 31, 1995.

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative REED from the Committee on Business and Economic Development on Bill "An Act to Simplify the Licensure Requirements of the Board of Counseling Professionals Licensure" (H.P. 844) (L.D. 1175) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-317)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-317) was read by the Clerk and adopted and the Bill assigned for second reading Wednesday, May 31, 1995.

Ought to Pass as Amended

Representative PINKHAM from the Committee on Marine Resources on Bill "An Act Concerning Inspection at Sea" (H.P. 929) (L.D. 1310) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-320)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-320) was read by the Clerk and adopted and the Bill assigned for second reading Wednesday, May 31, 1995.

Divided Report

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Forbid an Employer from Hiring Replacement Workers during a Strike" (H.P. 236) (L.D. 316)

Signed:

Senators: BEGLEY of Lincoln
MILLS of Somerset
JOY of Crystal
Representatives: JOYCE of Biddeford
PENDLETON of Scarborough
STEDMAN of Hartland
WINSOR of Norway

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-310) on same Bill.

Signed:

Senator: RAND of Cumberland
Representatives: HATCH of Skowhegan
CHASE of China
LEMAIRE of Lewiston
SAMSON of Jay
TUTTLE of Sanford

Was read.

SPECIAL SENTIMENT CALENDAR

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

On further motion of the same Representative, tabled pending her motion to accept the Minority **"Ought to Pass"** as amended Report and specially assigned for Wednesday, May 31, 1995.

Divided Report

Majority Report of the Committee on Labor reporting **"Ought Not to Pass"** on Bill "An Act to Allow Employees to Observe Holidays" (H.P. 497) (L.D. 678)

Signed:

Senators:

BEGLEY of Lincoln

MILLS of Somerset

RAND of Cumberland

Representatives:

JOY of Crystal

JOYCE of Biddeford

PENDLETON of Scarborough

STEDMAN of Hartland

WINSOR of Norway

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-313) on same Bill.

Signed:

Representatives:

HATCH of Skowhegan

CHASE of China

LEMAIRE of Lewiston

SAMSON of Jay

TUTTLE of Sanford

Was read.

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

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

Divided Report

Majority Report of the Committee on Labor reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-312) on Bill "An Act to Prohibit the Employment of Professional Strikebreakers" (H.P. 505) (L.D. 686)

Signed:

Senators:

MILLS of Somerset

RAND of Cumberland

Representatives:

HATCH of Skowhegan

CHASE of China

LEMAIRE of Lewiston

SAMSON of Jay

TUTTLE of Sanford

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

Signed:

Senator:

BEGLEY of Lincoln

Representatives:

JOY of Crystal

JOYCE of Biddeford

PENDLETON of Scarborough

STEDMAN of Hartland

WINSOR of Norway

Was read.

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

On further motion of the same Representative, tabled pending her motion to accept the Majority **"Ought to Pass"** as amended Report and specially assigned for Wednesday, May 31, 1995.

Divided Report

Majority Report of the Committee on Legal and Veterans Affairs reporting **"Ought Not to Pass"** on Bill "An Act to Qualify the Secretary of State's Ability to Invalidate a Petition" (H.P. 659) (L.D. 882)

Signed:

Senators:

FERGUSON of Oxford

STEVENS of Androscoggin

MICHAUD of Penobscot

Representatives:

BUCK of Yarmouth

CHIZMAR of Lisbon

FISHER of Brewer

GAMACHE of Lewiston

LABRECQUE of Gorham

TRUE of Fryeburg

LEMONT of Kittery

NADEAU of Saco

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-309) on same Bill.

Signed:

Representative:

MURPHY of Berwick

Was read.

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

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

Divided Report

Majority Report of the Committee on Labor reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-314) on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Contractual Obligation for Members of the Maine State Retirement System (H.P. 680) (L.D. 931)

Signed:

Senators:

MILLS of Somerset

RAND of Cumberland

Representatives:

HATCH of Skowhegan

CHASE of China

LEMAIRE of Lewiston

PENDLETON of Scarborough

SAMSON of Jay

TUTTLE of Sanford

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

Signed:

Senator:

BEGLEY of Lincoln

Representatives:

JOY of Crystal

JOYCE of Biddeford

STEDMAN of Hartland

WINSOR of Norway

Was read.

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

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

Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-311) on Resolve, to Create the Teacher Retirement Advisory Committee (H.P. 761) (L.D. 1035)

Signed:

Senators: BEGLEY of Lincoln
MILLS of Somerset
RAND of Cumberland
Representatives: HATCH of Skowhegan
CHASE of China
JOY of Crystal
LEMAIRE of Lewiston
SAMSON of Jay
STEDMAN of Hartland
TUTTLE of Sanford

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

Signed:

Representatives: JOYCE of Biddeford
PENDLETON of Scarborough
WINSOR of Norway

Was read.

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

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

CONSENT CALENDAR

First Day

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

(S.P. 466) (L.D. 1262) Bill "An Act to Make Certain Changes to the Maine Juvenile Code" Committee on Criminal Justice reporting "Ought to Pass" as amended by Committee Amendment "A" (S-173) (H.P. 1030) (L.D. 1449) Resolve, Authorizing the Town of Dennysville to Transfer a Certain Parcel of Property Committee on State and Local Government reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, May 31, 1995 under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(H.P. 1040) (L.D. 1459) Bill "An Act to Make Changes to the Public Utilities Laws" (C. "A" H-307)

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

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Change the State's Air Quality Standard for Ozone to the Federal Standard" (H.P. 199) (L.D. 258) (C. "A" H-293)

Bill "An Act to Amend the Law Regulating 53-foot Semitrailers" (H.P. 508) (L.D. 689) (C. "A" H-305)

Bill "An Act to Require Mortgage Insurers to Offer a Policy Following the Cancellation of an Original Policy" (S.P. 314) (L.D. 895) (C. "A" S-160)

Bill "An Act to Amend the Motor Vehicle Laws" (H.P. 679) (L.D. 930) (C. "A" H-306)

Bill "An Act to Clarify the Discretion of the Commission on Governmental Ethics and Election Practices in Assessing Penalties" (EMERGENCY) (H.P. 685) (L.D. 936) (C. "A" H-308)

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

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

ENACTORS

Emergency Mandate

An Act to Amend the Charter of the Bangor Water District (H.P. 311) (L.D. 415) (S. "A" S-171 to C. "A" H-228)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 133 voted in favor of the same and 0 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTORS

An Act to Allow the Collection of Reimbursement for Medical Expenses (S.P. 375) (L.D. 1052) (C. "A" S-148)

Was 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.

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Thursday, May 25, 1995, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

Bill "An Act to Clarify the Responsibility of an Insurance Agent in the Disclosure of Information" (H.P. 788) (L.D. 1105)

- In House, passed to be engrossed as amended by Committee Amendment "A" (H-252) on May 17, 1995.

- In Senate, passed to be engrossed as amended by Committee Amendment "A" (H-252) as amended by Senate Amendment "B" (S-177) thereto in non-concurrence.

TABLED - May 25, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Further Consideration.

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

HOUSE DIVIDED REPORT - Majority (10) **"Ought Not to Pass"** - Minority (3) **"Ought to Pass"** as amended by Committee Amendment "A" (H-304) - Committee on Education and Cultural Affairs on Bill "An Act to Require That School Buildings Be Renovated Unless New Construction Is More Cost-effective" (H.P. 600) (L.D. 810)

TABLED - May 25, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.
PENDING - Acceptance of either Report.

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

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative Ault.

Representative AULT: Mr. Speaker, Men and Women of the House: I rise today to support the motion by the Representative from Portland, Representative Brennan. The committee appreciated that Representative Lemont brought this issue to our attention because, I believe that it is very important that we look at renovation versus new construction. The majority of the committee did believe that we should include Representative Lemont's ideas when we work the entire school construction issue. This will be done within the context of the Governor's bill. I support the pending motion. Thank you.

Subsequently, the Majority **"Ought Not to Pass"** Report was accepted and sent up for concurrence.

SENATE DIVIDED REPORT - Report "A" (8) **"Ought Not to Pass"** - Report "B" (4) **"Ought to Pass"** as amended by Committee Amendment "A" (S-117) - Report "C" (1) **"Ought to Pass"** as amended by Committee Amendment "B" (S-118) - Committee on Utilities and Energy on Bill "An Act to Release the Public Utilities Commission from Mandatory Participation in Welfare Programs" (S.P. 149) (L.D. 335)

- In Senate, Report "B" **"Ought to Pass"** as amended read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-117).

TABLED - May 25, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Motion of Representative KONTOS of Windham to accept Report "A" **"Ought Not to Pass."**

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

Bill "An Act to Allow the Sale of Irradiated Food in the State" (H.P. 437) (L.D. 603) (C. "A" H-128)

TABLED - May 25, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Passage to be Engrossed.

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

HOUSE DIVIDED REPORT - Majority (10) **"Ought to Pass"** as amended by Committee Amendment "A" (H-273) - Minority (3) **"Ought Not to Pass"** - Committee on Natural Resources on Bill "An Act Concerning Ring Holding Devices Used in Packaging" (H.P. 940) (L.D. 1329)

TABLED - May 25, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

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

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative GOULD of Greenville to accept the Majority **"Ought to Pass"** as amended Report and later today assigned.

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

TABLED - May 25, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Passage to be Enacted.

This being an mandate, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and 5 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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)

TABLED - May 25, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Passage to be Enacted.

On motion of Representative JACQUES of Waterville, tabled pending passage to be enacted 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 25, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

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 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 25, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Motion of Representative DORE of Auburn 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.

SENATE DIVIDED REPORT - Majority (7) **"Ought Not to Pass"** - Minority (6) **"Ought to Pass"** as amended by Committee Amendment "A" (S-152) - Committee on

Taxation 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)

- In Senate, 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).

TABLED - May 25, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Acceptance of either Report.

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

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

TABLED - May 25, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Passage to be Engrossed.

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

TABLED AND TODAY ASSIGNED

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

HOUSE DIVIDED REPORT - Majority (7) **"Ought to Pass"** as amended by Committee Amendment "A" (H-289) - Minority (5) **"Ought Not to Pass"** - Committee on **Utilities and Energy** on Bill "An Act Regarding Cable Television" (H.P. 831) (L.D. 1162)

TABLED - May 25, 1995 by Representative KONTOS of Windham.

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

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative KONTOS of Windham to accept the Majority **"Ought to Pass"** as amended Report and later today assigned.

Bill "An Act to Coordinate Low-income Energy Assistance Programs" (S.P. 270) (L.D. 721)

- In House, Majority **"Ought Not to Pass"** Report of the Committee on **Business and Economic Development** read and accepted on May 18, 1995.

- In Senate, Senate 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.

TABLED - May 25, 1995 by Representative ROWE of Portland.

PENDING - Motion of same Representative to Adhere.

Representative BIRNEY of Paris moved that the House Insist and ask for a Committee of Conference.

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

Representative BIRNEY: Thank you Mr. Speaker, Men and Women of the House: The Low-income Assistance Program is to benefit the poor. It is our duty to see that it is administered as efficiently as possible. This is a good government bill.

Representative DAVIDSON of Brunswick requested the Clerk to read the Committee Report.

The Clerk read the Committee Report in its entirety.

The **SPEAKER**: The Chair recognizes the Representative from Portland, Representative Rowe.

Representative ROWE: Mr. Speaker, Men and Women of the House: I simply ask that you vote to defeat the pending motion so that we can go on to Adhere to our previous position, whereby the House accepted the Majority **"Ought Not to Pass"** Report.

I won't cover all the issues I mentioned last time, but I would like to say again that there is a conflict with several provisions of federal law that give preferences to agencies like the Community Action Program agencies. Also, the bill that you have before you, L.D. 721, requires to make a decision based on a single factor, that being the lowest cost per applicant. I would remind you that the current Maine State Housing rules look at several criteria, others include the experience in providing fuel assistance, the current capacity to administer a timely and effective fuel assistance program and the ability to enhance client accessibility to other low-income programs.

As you recall before, we talked about the CAP agencies being a one stop shop for many people and there is a single application that applies to numerous programs. So for all these reasons, I would request that you would vote to defeat the pending motion so that we could go on to Adhere to our previous action. Mr. Speaker, I would ask for a division.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: I would also ask that you defeat the pending motion. As you saw from the report, there was certainly a majority of us that were opposed to this move. I think this goes against everything we say we believe in from a stand point of efficiency. I know this won't happen, but we have a potential of over 400 different groups administering this program where now we have less than 20. It just makes absolutely no sense to me that we open this up to the way it used to be. It was changed for a purpose.

I talked to, in the county I come from, the gentlemen who did the auditing of the program before it changed to its present system. He said it was an absolute financial disaster when it was done by the individual towns. They didn't have the resources to do it. Many of the small towns, if you folks that come from rural communities, know very well that your town offices are not even open all week long. Some of them are only open one day or a half a day here and there. Access to the programs will be severely diminished. Keeping them in the CAP agencies as they presently are as the good Representative from Portland mentioned, we have one agency handling a number of programs and whether you like the programs or not is another issue.

The fact is one agency administering a number of programs is more efficient than taking this one program away from the agency. By the way, this agency will probably still exist within a county and you will have maybe, the larger towns or larger cities that have the ability to do it and the small towns will still have to be administered by the CAP agencies and it just adds more and more confusion the

more people you get involved here. I would urge you to vote against the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Dexter, Representative Reed.

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: I also urge you to vote against this motion and vote to Adhere. This CAP Program has been very successful and I don't think if we change we are going to save any money. In the county that I come from, I have been urged to vote to keep the CAP Program in operation, because it has been very cost effective. They have done a great job and I just don't think that this is the right way to go. I hope you will defeat this motion. Thank you.

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

Representative BIRNEY: Mr. Speaker, Distinguished Members of the House: The CAP agencies and there are 11 of them in the state, do a good job. I know Representative Rowe mentioned a conflict of federal law. The only conflict is that when Maine state Housing is looking to send this money out they have to give these CAP agencies preferential treatment. It is true that this says it will be based on the lowest cost per application, but anybody that did on this, has to file the other rule. Basically all this does is allow some of its larger and medium towns who already have welfare directors a chance to bid on this process.

The administrative cost of this program is mandated by federal government, not to exceed 10 percent. It is not going to cost anymore to have other people involved, because they can't go over the 10 percent to administer the program anyway. If it does go over, naturally they are not going to get the bid. Most of the rural communities including communities around my area would probably continue to stick with the CAP agencies. Some of your bigger towns who do have welfare directors would like a chance to bid on this. All we're doing is giving them an equal opportunity to bid on this process that they do not have now. Thank you.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I hope when you vote today you vote to defeat the pending motion and vote to Adhere. My major concern dealing with CAP is the northern part of Maine, particularly the rural part of Maine, dealing with the shut-ins. People can't get to the agencies and they seem to be the last ones to get the help, particularly in the area I live in. I hope when you vote today, you vote to defeat the motion and vote to Adhere. Thank you.

Representative ROWE of Portland requested a division on the motion to Insist and ask for a Committee of Conference.

The Chair ordered a division.

A vote of the House was taken. 29 voted in favor of the same and 89 against, the motion to Insist and ask for a Committee of Conference was not accepted.

Subsequently, the House voted to Adhere.

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

SENATE PAPERS

Bill "An Act to Improve Safety in the Motor Carrier Industry" (S.P. 577) (L.D. 1554) (Governor's Bill)

Came from the Senate with the Bill indefinitely postponed.

(The Committee on Reference of Bills had suggested reference to the Committee on Transportation.)

Was indefinitely postponed in concurrence.

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

The SPEAKER: The Chair recognizes the Representative from Mapleton, Representative Desmond.

Representative DESMOND: Mr. Speaker, I request to speak to the House on the record.

The SPEAKER: The Representative may proceed on the record at this time.

Representative DESMOND: Thank you Mr. Speaker, Distinguished Colleagues: I stand to bring you a remembrance for Memorial Day.

Memorial Day originated during the Civil War when some Southern women chose May 30th to decorate soldiers graves. The women honored the dead of both the Union and Confederate armies. Oliver Wendell Holmes wrote of those terrible times. We have shared the incommunicable experience of war. We have felt, we still feel passion of life to its top. In our youths our hearts were touched with fire.

As a wife and mother, I find it difficult to be academic about a war so personal—father and son, brother and brother. A week before the Battle of Bull Run, Sullivan Ballou, a Major in the 2nd Rhode Island Volunteers, wrote home to his wife in Smithfield.

July 14, 1861

Washington, D.C.

Dear Sarah,

The indications are very strong that we shall move in a few days—perhaps tomorrow. And lest I should not be able to write you again, I feel impelled to write a few lines that may fall under your eye when I am no more.

I have no misgivings about, or lack of confidence in the cause in which I am engaged and my courage does not halt or falter. I know how American civilization now leans upon the triumph of the government, and how great a debt we owe to those who went before us through the blood and suffering of the revolution, and I am willing, perfectly willing to lay down all my joys in this life to help maintain this government and to pay that debt.

Sarah, my love for you is deathless. It seems to bind me with mighty cables that nothing but omnipotence can break and yet my love of country comes over me like a strong wind and bears me irresistibly with all those chains to the battlefield. The memory of all the blissful moments I have enjoyed with you come crowding over me, and I feel most deeply grateful to God and you, that I've enjoyed them for so long and how hard it is for me to give them up and burn to ashes. And hopes future years with God willing, we might still have lived and loved together and see our sons grown up to honorable manhood around us.

If I do not return, my dear Sarah, never forget how much I loved you, nor that as my last breath escapes me on the battlefield, it will whisper your name. Forgive my many faults and the many pains I have caused you. How thoughtless, how foolish I have sometimes been. But, oh Sarah, if the dead can come

back to this earth and flit unseen around those they love, I shall always be with you in the brightest day and the darkest night—always, always, and when the soft breeze fans your cheek, it shall be my breath or the cool air at your throbbing temple and shall be my spirit passing by. Sarah, do not mourn me dead. Think I am gone and wait for me, for we shall meet again.

Sullivan Ballou was killed a week later at the first Battle of Bull Run.

Lest we forget what they died for—God Bless America.

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

(After Recess)

The House was called to Order by the Speaker.

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

Senate Divided Report - Committee on Labor - (7) Members "Ought to Pass" - (6) Members "Ought Not to Pass" on Bill "An Act to Authorize Municipalities to Pay Employees Biweekly" (S.P. 259) (L.D. 695) which was tabled by Representative HATCH of Skowhegan pending her motion to accept the Minority "Ought Not to Pass" Report.

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

Representative JOYCE: Thank you Mr. Speaker. I think this bill is a good idea for three reasons. First one, currently school districts, state government and the federal government already pay their employees on a biweekly basis. It only seems fair that municipalities should be on the same level playing field.

Number two, there is no evidence that employees would rather be paid weekly than biweekly. Under current law municipalities can pay biweekly, but even if one employee objects to this then in a practical matter, the municipality has to go to a weekly payroll, because it is to expensive and costly to maintain two payroll systems.

The third reason is with all the numbers that were shown to the committee, this bill would allow municipalities to cut their payroll processing costs in half. I haven't figured out for Biddeford yet, but Senator Amero said Cape Elizabeth would save at least \$20,000 per year by going to a biweekly payroll system. I request a division, Mr. Speaker.

Representative JOYCE of Biddeford requested a division on the motion to accept the Minority "Ought Not to Pass" Report.

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

Representative Tuttle: Mr. Speaker, Ladies and Gentlemen of the House: The good gentlemen from Biddeford, Representative Joyce has explained to you the reason why most of the proponents are supporting this legislation. I came down on the side of one of the opponents and will be as brief as possible.

The law requires that municipalities pay its employees each week. The bill requires that towns pay employees at least every two weeks. If the

employee agrees to a less frequent pay schedule, the town may do so. The town may also continue weekly paychecks. As Representative Joyce has told you towns could save money in administrative costs by passing this. Presently state employees and teachers are paid every two weeks. The bill permits frequency of pay to be negotiated.

The opponents of the bill, myself included, feel that the law already allows delay of pay for one week. It is particularly harder for low wage earners to make ends meet, if paid every week. Many private companies are required to pay every week and we are wondering why the same provision should not stay on the books for municipalities. Also, the change over would cause somewhat a problem on an administrative level in strictly for those employees. I came down on the side of the opponents. You have heard both sides and I would ask you to vote your conscience on this issue and I would encourage you to support the "Ought Not to Pass" Report.

The Chair ordered a division.

The SPEAKER: 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.

A vote of the House was taken. 29 voted in favor of the same and 69 against, the Minority "Ought Not to Pass" Report was not accepted.

Subsequently, the Majority "Ought to Pass" Report was accepted. The Bill was read once. The Bill was assigned for second reading Wednesday, May 31, 1995.

House Divided Report - Committee on Labor - (8) Members "Ought Not to Pass" - (5) Members "Ought to Pass" as amended by Committee Amendment "A" (H-313) on Bill "An Act to Allow Employees to Observe Holidays" (H.P. 497) (L.D. 678) which was tabled by Representative HATCH of Skowhegan pending her motion to accept the Minority "Ought to Pass" as amended Report.

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

Representative JOYCE: Mr. Speaker, Men and Women of the House: I have four problems with this bill. The first one is the testimony at the public hearing stated that most employees that work on these seven major holidays volunteer for that time. There are a number of companies, such as Shop'N Save, Shaws and some of the larger companies, that already pay a premium to their employees on these days. I would like to call your attention to the penalty on the bottom of this bill. This has a penalty of \$5,000 per violation. I think that is a little steep for this bill.

My fourth problem with this bill is, I think it is a little bit discriminatory since we would be exempting state employees from this bill. Why we are mandating private employers to do this, state employees wouldn't have to be involved in this, counties, municipalities, school administrative units, University of Maine, restaurants, hotels, motels, hospitals, nursing homes and emergency services. I am not sure exactly who we are targeting this bill at. I would request a division.

Representative JOYCE of Biddeford requested a division on the motion to accept the Minority "Ought to Pass" Report.

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

Representative BOUFFARD: Mr. Speaker, Men and Women of the House: This bill I introduced because of the fact that a few years ago in the City of Lewiston the Kmart store decided that they were going to open their stores on Thanksgiving Day. I said enough is enough. It is time that we stopped and reflect that there are certain holidays that mean something to this nation.

The Fourth of July, this is the birth of this nation. Why is it that there are people out there that feel they must work on the birthday of our nation? This is a day that should have baseball, mom's apple pie and picnics in the park, but no, there are certain industries that feel that they want to observe the holidays by making their employees work. If that is the case that they need to work, they need to have these stores open, then let them pay the price or let them have everybody observe the holidays, not just management people or the people in administration.

A company did testify that they would have to probably lay off some permanent workers. They would have no other alternative, but to lay off some permanent workers because it was too costly for them, thus my compromise of bringing the triple pay down to double time, twice your amount of pay. I didn't want to go any further below that because I felt that companies should be made to pay if they are going to insist on working on holidays instead of having families getting together and observing these holidays. The very same week this company testified that they were against, low and behold, in the newspaper where I come from they had an article in there which showed that the first quarter of 1995 they had a 31 1/2 increase in sales and revenues compared to the first quarter of 1994.

If an increase in sales and revenues to companies is giving them a hardship that they are going to have to lay off employees so they can enjoy a holiday with their families, I don't know, I didn't go to the same school, I guess. To me this is a family bill. It is a bill that I feel we have given up 52 Sundays that we can get together with our families. We ought to be able to have at least seven days and seven meaningful holidays. I didn't pick Martin Luther King Day or Columbus Day. I picked seven days that mean something to your families so that you could tell your offspring and grandchildren the true meaning of these holidays. If everybody is out there working, then I don't see how the heck we can explain to our offspring the value of the holidays.

As far as state employees are concerned, well I understand that the fiscal impact there would be on certain state employees, first of all, it is in the state employee contract that they don't work holidays or else they get paid time and a half, but there are certain state employees that must work. The guards in the prisons, for example, our people who must work and the fiscal impact for the state budget would be greater. That is the reason for those county and municipal employees being omitted.

I chose to omit restaurants and hotels because if I want to take my family out to a restaurant on that holiday, I should be able to explain to them that because of the fact that this is a holiday we can enjoy a day out at the famous restaurant, in the same way if you want to take them out-of-state to a hotel, these places should stay open. The other exception is the people who are on emergency nurses and policemen, etc.

The penalty, by the way, has been removed. It is no longer a \$5,000 penalty. What it is the regular penalty that the labor laws provide, which is the employee get paid what is due them, plus a \$250 fine. I wish I could have kept the \$5,000 fine, because I felt that one of the ways to have these places close would be to hurt them in the pocketbook, rather than just having \$250 business as usual cost. I hope that you will support the amendment of L.D. 678 as "Ought to Pass". Thank you.

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

Representative DiPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I have been here a long time and I have seen a lot of bills, but I can't ever remember seeing one that is this bad. When I say this bad, I mean it from the standpoint of view of Sam DiPietro and every other little businessman. I have to look at my good friend Chick down there. He is laughing at me constantly all day today.

What I want to get to is that it is nice to pay people. It is nice to ask people to work on their holidays. If they don't want to work, I am sure their employer will see that they get the day off, because if they are not going to be there in heart, they are not going to be there in spirit either. What you got to do is you have to work around it, but if this bill should pass, first it said triple time and now it says double time. Do you know what that means? It means that every little mom and pop store will close and every gas station will close. I spoke with the people at the Maine Mall yesterday and they indicated to me that some of their stores will close.

If all these people are going to close, you can't buy any food because the mom and pop stores will close. You can't buy any gas because the gas stations closed. What good is the holiday, you can't go anywhere. I am telling you to take a good hard look before you vote. I am not going to tell you how to vote, but it you like, follow my light. Thank you.

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: If you take a good look at the title of this bill, all it says is "An Act to Allow Employees to Observe a Holiday". The reason why I opted to get onto this bill is because I have basic values that I always cherish in my life and I think I tried to instill my daughter with them, is values are created in the atmosphere of a home. Where does the home begin? Right there in the home. The only thing is what, I think, this bill was trying to do and what I would like to see done is this is a family oriented bill. It is to help keep basic families together on certain holidays.

I ask many of you here in this chamber, go back to your basic roots when you were five, six, seven, eight, nine and moving up. Can you remember spending the Fourth of July with dad and mom at a beach some place, having a good time? Those were family values that you cherished. That is the part of the bill that I would hope that you the members would take a good look at. Many of us go home and we hear people say the family values are being eroded. The family values are dying here. Kids don't pay attention in school. Children don't do that. You have an opportunity to take a look at a bill.

If you are really concerned about family values, that is the part where I am coming from. Keep the

families together. If it is seven holidays or a Christmas or New Years or on a day like yesterday when these are basic values to all of us that the family could cherish together. I would hope that you would support the "Ought to Pass".

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

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House: I think there is a misunderstanding on what we have heard so far on the debate on this issue. As I understand it, retail establishments in excess of 5,000 square feet are not open on many major holidays, Christmas, Thanksgiving or Easter. I also understand that any employees that work in these organizations that have 5,000 square feet or more, Sunday employment is optional on the part of the employees.

The concern that I have is the same concern that the Representative from South Portland spoke about, the small retailers that are under 5,000 square feet that they are having difficulty keeping in business now, if we were forced to pay even double time on weekends, I can assure you that many of those places could close. Thank you.

Representative WHITCOMB of Waldo requested a roll call on the motion to accept the Minority "Ought to Pass" Report.

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

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

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

Representative FARNUM: Mr. Speaker, Ladies and Gentlemen of the House: I remember a little while ago making a speech about three or four years ago on something similar to this. In it I said, family values cannot be legislated by law. Family values can only be taught in the church and in the home. Thank you.

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

ROLL CALL NO. 119

YEA - Ahearne, Benedikt, Berry, Bouffard, Chizmar, Clark, Cloutier, Desmond, Dore, Gerry, Green, Hatch, Heeschen, Jones, K.; Lemaire, Lemke, Pouliot, Richardson, Ricker, Rosebush, Samson, Shiah, Sirois, Tuttle, Volenik, Watson.

NAY - Aikman, Ault, Bailey, Barth, Bigl, Birney, Brennan, Buck, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Clukey, Cross, Daggett, Damren, Davidson, DiPietro, Donnelly, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Heino, Hichborn, Jacques, Johnson, Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbr, Luther, Madore, Marshall, Martin, Marvin, Mayo, McAleve, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nass,

Nickerson, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Povich, Reed, W.; Rice, Robichaud, Rowe, Savage, Saxl, J.; Saxl, M.; Simoneau, Spear, Stedman, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tufts, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

ABSENT - Adams, Chase, Dexter, Lemont, O'Gara, O'Neal, Reed, G.; Rotondi, Truman, Tyler, Underwood, Vigue, Winn, Yackobitz, The Speaker.

Yes, 26; No, 110; Absent, 15; Excused, 0.

26 having voted in the affirmative and 110 voted in the negative, with 15 being absent, the Minority "Ought to Pass" Report was not accepted.

Subsequently, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

House Divided Report - Committee on Legal and Veterans Affairs - (11) Members "Ought Not to Pass" - (1) Member "Ought to Pass" as amended by Committee Amendment "A" (H-309) on Bill "An Act to Qualify the Secretary of State's Ability to Invalidate a Petition" (H.P. 659) (L.D. 882) which was tabled by Representative NADEAU of Saco pending his motion to accept the Majority "Ought Not to Pass" Report.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to explain why I think this bill has some merit. The statement of fact of the bill says this bill clarifies that the failure of a clerk of a municipality to meet the statutory and constitutional requirements of petition verification and certification is not sufficient cause to invalidate a petition. If the petition circulators and signers have met their statutory and constitutional requirements.

I think there has been, in the past, some problems there. I am not going to get up here and say they are terribly serious problems, but I think there have been some problems and maybe this needs to be addressed to make sure that the people who sign these petitions and put their names on them have a right to believe that it is going to be checked off in a manner that the statutes of the State of Maine say they are to be checked off. With that I would urge you to vote against the "Ought Not to Pass" so we can go on to pass the "Ought to Pass" Report. Thank you.

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

Representative GERRY: Mr. Speaker, Men and Women of the House: I, too, rise to ask the membership of the house to please vote against this "Ought Not to Pass" report. I know it is a 12 to 1 report and I thank Representative Murphy for having enough courage to stand up for people's rights to be able to petition and to have their signatures counted.

This bill I sponsored and I did it on my own accord, this was not put up to me by anybody else. I submitted this bill after working on various petition drives. It is amazing to see how when people get caught up in a petition drive, you see their enthusiasm for a cause. A lot of these people are just average citizens, they have never had a chance to work on a petition drive before.

There is a lot to the process, you have to be a registered voter, you have to make sure that petition is in your hands or in front of you while you watch

people sign it. When your petition is filled or when you are done you have to take it in front of a notary and swear that you are the one who was there when you saw all these people sign it. Then you have to take it to the town clerk and have them check off the voters and then they have to fill out the certificate to say that, yes, whatever number of valid signatures are registered voters. When that process is done all the signatures are taken to the Secretary of State, which in turn scrutinizes them.

It is a shame that the Secretary of State disallows signatures on a petition just because a town clerk or somebody in the office made a mistake. Somebody in the office might have signed the certificate part that didn't have the authority to. Someone might have used the facsimile stamp instead of a real signature. They could have instead of circling all the right numbers on a certificate part they might have circled that one number, like 18 out of 50 and circled 18. The Secretary of State looks at it and counts it as only one.

Originally this was asked if it was constitutional. I asked for a ruling through the Secretary of State's Office and a gentleman by the name of Cab Howard looked into it and said, "It is apparently quite common when petitions are submitted to the Secretary of State for errors to be found that were committed not by the petitioners, but by the local registrar in certifying the signatures on the petition. The thrust of your bill L.D. 882 is to allow the Secretary of State to return such petitions to the local registrar to correct such errors, thus the thrust of the bill raises a constitutional question of whether, if enacted, it would in any way violate the provisions. In my view, however, the courts are unlikely to utilize this petition to invalidate your proposition."

The Supreme Court has repeatedly said that the provisions of the Constitution and the statute should be interpreted to effectuate the intention of the initiators. The Constitution must be literally construed to facilitate rather than to handicap the people's exercise of sovereign power to legislate. Since the purpose of your bill is to assist the initiator by providing them a mechanism to correct the errors of local registrars, rather than the initiators, meaning my errors, it is likely that the courts would interpret the constitution literally to permit such errors to be corrected. I do not think your bill is likely to be found unconstitutional.

Up until they had trouble with the term limit petitions, they did not give you back a paper to say how many signatures were valid, they did not give you a tally sheet. It was when the term limits had all the trouble that they started giving you a tally sheet for how many were correct and how many weren't correct and why this one or that one was not allowed. When I started investigating this issue, I requested from the Secretary of State the last five years of petitions and what the circumstances were. From 91 to 93 there seemed to be no real problems.

In 92, the Workmans' Compensation Act failed to garner enough signatures. The reason why they lost signatures were many were found to be duplicates, registrar facsimile signatures were used in place of the original registrar's signature. Other people inappropriately signed and initialed the petitions on behalf of the registrars. On congressional term limits, which I know is not a popular subject here, 1,312 signatures were invalid because of

certification of the registrar or member of the Board of Registrar was not completed. An additional 93 signatures were invalid because the registrar or a member of the Board of Registrar used a facsimile stamp.

In 94, for the petition, "An Act to Limit Protected Classes Under Maine Law", they lost 59 signatures due to the fact that the certification was not completed by the registrar and 228 signatures were invalid because a registrar or member of the Board of Registrar signature is a facsimile rather than an original. They say that this is an isolated thing, I beg to disagree. It was brought up that it was an interdepartmental issue and it would be corrected. The only correction that they made was that now they are going to allow other people other than the registrar themselves to sign the petition.

I am sorry for being so winded, but please vote this down. Please vote with the side of the people. Thank you.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: I think you have heard some reasons why, in the opinions of some, that this bill ought to pass. However, I submit to you this is a possible solution to a problem that doesn't exist. It was not made clear to us in committee why, in fact, this bill was even before us.

Yes, there were a few technical problems with the referendum question on United States term limits. However, those concerns have been addressed internally. There is no need to put a statute in place for a problem that doesn't exist. I don't think I can make it any more clear to you. This is a possible solution to a problem that does not exist, therefore, I would urge you to follow the 12 to 1 committee report and vote this bill where it probably should go.

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

Representative GERRY: Mr. Speaker, Men and Women of the House: I forgot to mention that for the fiscal note it says the Department of the Secretary of State will incur some minor additional cost to the return of the petitions incorrectly verified and certified. The cost can be absorbed within the budget of the Secretary of State's existing budget resources. May I please have a roll call vote when this is taken?

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

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

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

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

ROLL CALL NO. 120

YEA - Berry, Bigl, Bouffard, Brennan, Buck, Cameron, Carleton, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro,

Donnelly, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gooley, Gould, Green, Hatch, Heeschen, Heino, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Joyner, Keane, Kerr, Kneeland, Kontos, Labrecque, LaFountain, Lemke, Libby JL; Lindahl, Martin, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, Ott, Pendleton, Poirier, Poulin, Pouliot, Povich, Rice, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Spear, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Tripp, True, Tuttle, Volenik, Watson.

NAY - Ahearne, Aikman, Ault, Bailey, Barth, Benedikt, Birney, Bunker, Campbell, Chick, Clukey, Cross, Damren, Dunn, Farnum, Gates, Gerry, Gieringer, Greenlaw, Guerrette, Hartnett, Jones, S.; Joy, Joyce, Kilkelly, Lane, Layton, Lemaire, Libby JD; Look, Lovett, Lumbra, Luther, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, Paul, Peavey, Perkins, Pinkham, Plowman, Reed, W.; Robichaud, Savage, Simoneau, Stedman, Treat, Tufts, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor.

ABSENT - Adams, Dexter, Lemont, O'Gara, O'Neal, Reed, G.; Rotondi, Truman, Tyler, Underwood, Vigue, Yackobitz, The Speaker.

Yes, 78; No, 60; Absent, 13; Excused, 0.

78 having voted in the affirmative and 60 voted in the negative, with 13 being absent, the Majority **"Ought Not to Pass"** Report was accepted and sent up for concurrence.

House Divided Report - Committee on Labor - (8) Members **"Ought to Pass"** as amended by Committee Amendment "A" (H-314) - (5) Members **"Ought Not to Pass"** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Contractual Obligation for Members of the Maine State Retirement System (H.P. 680) (L.D. 931) which was tabled by Representative HATCH of Skowhegan pending her motion to accept the Majority **"Ought to Pass"** Report.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: I don't know if any of you have thoughts like I do occasionally when I come here into the Capitol building first thing in the morning and hear my footsteps echoing behind me as I walk across the Hall of Flags downstairs. I often wonder, what am I doing here and then this bill raises its ugly head again.

The last time we debated this bill was on Good Friday last year, when we were supposed to have been dismissed the day before. You are going to hear that this bill has the support of many people in this body and in the other body. The number that was given to me was 104 people. To show you where these 104 people are coming from, the signatures were garnered, for the most part, by the representative of the Maine Education Association and the Maine State Employees Association.

This is one of the bills that prompted Representative Adams to bring about his rules change that requires a legislator to gather his or her own signatures. This bill, ladies and gentlemen, is probably the most discriminatory bill that will come in front of this body this year. This bill would provide a contractual obligation for the retirement for slightly less than four percent of the population. For those of you who were here last

year, you will notice that I gave you the full four percent. Some figures that I garnered while I was working on a subcommittee to determine the retirement budget it was found that the number of teachers had decreased by approximately 2000, since that time, that will reduce the numbers to less than four percent.

Ninety-six percent of the people in this state helped to fund that retirement system. They have some protections if they belong to a private pension plan. Protections are not a contract for their retirement. There are only six states in the nation that have this particular amendment in their constitution. Those six states find themselves in court more often than not. I wonder when the representatives of these two agencies were gathering signatures. I wonder if they told you that they now have a law suit filed in federal court to overturn a decision established by the Maine Law Court which says that, no, teachers and state employees do not have a contract for their retirement.

When this bill was originally presented a year ago it included all of the members of the retirement system inclusively. That was quickly amended to take out all those members of the retirement system who belong to the PLDs and further discriminated to list just teachers and state employees. Ladies and gentlemen, there was a time when this retirement system was put in place to make sure there was an extra benefit there because teachers salaries and state employees salaries were lower than those in the private sector, such is not the case anymore. These salaries compete very favorably with those in the private sector.

There are many reasons why this item should not go in the Constitution of Maine. First and foremost we have an equal protection clause under the Constitution of the State of Maine. That equal protection clause guarantees against discrimination. If we put this in the constitution, we are discriminating in behalf of those four percent of our population. Some of the members on the other side of the isle in their debates this year have made comments about the sanctity of the constitution. I only hope that these are remembered when it comes time to vote on this particular issue.

The October 1994 issue of the Maine Educator carried the list of names of those people in this House who had voted against this on Good Friday of last year. It came along with a strong recommendation not to re-elect those persons. Only two of those people that were on that list who ran for office did not get re-elected. It is very obvious that the people in these 20 people's constituencies managed to get re-elected. Their constituents did not think that they had voted wrongly on this issue. We all took an oath to uphold the Constitution of the State of Maine and the constitution of our country.

Our constitution has that anti-discrimination clause, the equal protection clause. If you vote for this bill, then you certainly are voting against that equal protection clause in our constitution. The rules which we operate under in Masons, says that members may not vote to give money or any direct financial benefit to themselves. They may not vote to award a contract to themselves or renew a note in favor of a vote or salary to themselves as officers.

Ladies and gentlemen, you are employees of the State of Maine and a vote for this, votes to give you

a contract for your retirement, that is directly against the rules by which we operate. You also will be making a contract with yourself and that is forbidden. I could go on and I am certain that I could talk on this issue many days and again as to why I am down here on Sunday, I live on a very small street in Crystal, in fact, it is probably not worthy of a name of a street. It is called the Belvedere Road. On that road there are anywhere from 200 to 300 people who go along that road every single day to watch bear, deer and moose.

On Sunday I had the distinct pleasure to stand there and watch the largest black bear that I have seen in quite a number of years. You know there was not a single one of the people who came along to watch that bear and who made that journey during the day to see what wildlife was out there, who had a contract for their retirement. I urge you to defeat the pending motion and accept the Minority "Ought Not to Pass" motion. When the vote is taken I request the yeas and nays. Thank you.

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

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: I think it is important to recognize that two years ago this lost by one vote in the Senate, it was overwhelmingly supported in the House. It makes sense to have a Constitutional Amendment for the 42,000 active participants and the 17,500 retirees because the pension system has been used in a way that it has not been designed to be used. There is a threat of a future erosion of the few benefits that is not only fair and demoralizing to current teachers and state workers who are already in the system.

I think it is important to understand. We do not have social security. In response to Representative Joy's remarks on the six states who are in court. There were only 14 states in the country that have a pension system, we are one of them. We don't have anything else. We have been paying for a very long time and we expect at the end of it to have a system that was protected and that the integrity of the system was protected.

It has not been protected. There have been many years in the past, 10 to 15 years, that they have used the Maine State Retirement as a slush fund. It is not a slush fund. It is not a contingency fund. It is not a fund that when there are bad times in the State of Maine that they go into. We have an unfunded liability that is caused by just this sort of action in the legislature. I would like to mention the constitutional question and the minority question. I guess I have always wanted to be in the minority and right now I am.

I think the purpose of National and State Constitutions is to protect citizens from the kinds of actions that the legislature has done in the past few years with the Maine State Retirement System. The United States Constitution has been amended to protect minorities, women and blacks for just those reasons, those are minorities. Without this amendment the Maine State Retirement System is subject to further raids by this or future legislatures.

Remember if we made a law in this legislature that we would not touch the Maine State Retirement System,

the next legislature could turn around, if economic times were still tough, and go into this fund and do the same thing that they have done in the past. I think it is fair and reasonable to send this to the people to vote. We are not asking you to vote on it. We are only asking you to vote to send this to referendum. Thank you Mr. Speaker.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: Having been here through the last budget cycle, I do not see the Maine State Retirement System as a slush fund. I see it as a cookie jar and it is way too tempting. I don't think we need a constitutional amendment to make us keep our hands out of the cookie jar. We do need self discipline and each person who walks through the door should vow that they are not going to vote for a budget that consists of a raid on funds that were put there for a very specific reason.

I don't think that we should have to slap people's hands to keep them out of the cookie jar. I think that we need to take the responsibility upon ourselves and I think the electorate will be very disappointed if we ask them to tell us that this is something we shouldn't be doing. I would ask you to oppose the pending motion. Thank you.

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

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

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative STEDMAN: Mr. Speaker, Men and Women of the House: I was one of those persons that was approached by a lobbyist to sign onto this bill real early in the year and I was told that the bill would help secure the retirement system and protect it. At that time that sounded like a good idea to me.

I am not sure that what I was told at the time is what this bill really does. I do know that teachers around the state have also been told that the importance of this bill is that it will secure the system from further encroachment by people looking for funds to help finance other programs. This is not what this bill does. What this bill does is to put the idea of a contract into the constitution which then becomes a part of the basic rules of living in this state and also opens it up to the possibility of being a negotiable item when it comes to determining contracts. I am not sure this is something that should be in the constitution.

You will notice that I was on the "Ought Not to Pass" list when this bill did come out of committee. I do believe that there is another bill before us that will take care of the problem which this one was told to be doing in protecting the retirement system. I don't think this is the right one and I would urge you to defeat the "Ought to Pass" motion. Thank you.

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

Representative FISHER: Mr. Speaker, Men and Women of the House: As I spoke in committee and in caucus today, I believe that this bill is a bill that

supports financial responsibility in the State of Maine. Certainly this will, if it goes through and gets to be in our constitution, it will secure people's minds and the state retirement system already. People are very nervous about the future of the system. I insist to those who talk to me that the system is safe, but they don't buy that.

I am more concerned with what those who provide finances for the State of Maine, the people from the financial centers of New York, Boston and Philadelphia, are going to think if Maine continues its irresponsible ways towards its retirement system. The system was underfunded when it was first started and at least on three more occasions. It has been borrowed from or not funded properly. It is deep in the hole. We must show our financial responsibility. This is one way to insure it. Thank you.

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

Representative CHASE: Mr. Speaker, Men and Women of the House: I would just like to make a couple of points. The good Representative from Crystal, Representative Joy feels very strongly about this bill and I respect the strength of his feelings, being one who tends to feel fairly strongly about what we do in this body myself. He feels that the bill is discriminatory, having stated that it effects slightly less than four percent of the population.

The reason state employees and teachers are being treated differently, which I don't consider discrimination, is that they are in the peculiar position of being a group of people whose retirement benefits are in our hands. We are the body that through law can change those retirement benefits. We here are the people who determine what is and what is not mandatory subject for collective bargaining and we have not determined as one. We are the people who then diminish the benefits of the state retirement system for this exclusive and oddly treated group of people.

People who accept a job in state service. Accept a job under certain expectations. They are told what their range of pay is. They are told what their benefits are. We in this body are the ones who change that. The Representative from Hampden, Representative Plowman has suggested that we simply stop doing that. I applaud her determination, she as well as I accepted a budget in the last legislative session that did a number of things including reducing the retirement benefits of our state employees.

I suggest to you that, if and when, we receive a budget that the Appropriations Committee is happy with, of bipartisan agreement, we will all be happy to sign on, whether or not that happens to include a diminishment of retirement benefits. I suggest to you that we will not be able to keep our fingers out of the cookie jar because, frankly, when dealing with an entire budget, every now and then you have to say I don't like this piece, but I will accept it in the spirit of compromise. I will accept it so that we don't shut state government down. I will accept it holding my nose if I have to. I don't think the appropriate response to what we have done with the retirement system is to promise one another to behave better. I don't know that we will be in a position to be able to.

The last point that I would like to make is just in response to the good Representative from Hartland,

Representative Stedman who suggested that because of the contract language, this is now a subject open to collective bargaining. I suggest to you that is not, in fact, the meaning of the bill. That is to say that if we pass this bill and if the people of the State of Maine agree to the constitutional language, it will be treated as a contract, meaning untouchable. That is if we hire anyone else to work for us in the State of Maine anything goes, but for those people their benefits will be protected in the same way the federal law protects contracts, not that we will be sending it to collective bargaining.

I do hope, men and women of the House, that you do accept the Majority "Ought to Pass" as amended Report and finally begin to treat our state employees and teachers fairly and justly as they deserve. Thank you.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to thank the good Representative from China for the courtesy she has extended me and I will try to do the same for her. I know that she feels very deeply about some of these issues and I certainly feel deeply about this one.

I would like to correct a few points that have been indicated in testimony so far. First of all, this will not in any way effect any of those people who are retired right now. Once they have retired they already have a contract for their payments for the rest of their life, depending on which option that they have selected. Also I would like to point out that I was the topic of discussion in the Lincoln teacher's room last week. The teachers there for some reason or other managed to bring my name up and associated it with this bill. I fail to understand why, but they did.

I was very pleased to note that there were several of the social studies teachers there who indicated that my position was exactly correct, that we should not be putting something like this into the constitution. I would also like to point out someone mentioned that there were three major borrows that had been imposed on the retirement system.

The first one came during the administration of the late Governor Longley and some 50 million dollars was borrowed from the system. Since then there has been a constitutional amendment which does not allow the state to take money out of the retirement system. In order to get around that future governors, the two governors after that, instead of taking money out of it, did a deferral and didn't put the money in in the first place. The unfunded liability which is usually referred to here consists of a total bill of 2.8 billion dollars. On the current amortization schedule it carries with it a 5.8 billion dollar interest tag.

I would like to point out that the major causes of the unfunded liability were not the borrows against the system. The major causes of the unfunded liability were past legislators allowing special bills in which folded more people into the system and did not pick up the employers related shares. The largest of these would have been paid off by the year 2000 which was the old system teachers. This was rolled into the total unfunded liability and now is on a 31 to 33 year pay back and that is where the 5.8 billion dollar interest comes on that scheduled pay back.

One of the largest factors contributing to the unfunded liability of this retirement system was back when the average retirement stipend was changed from being figured or calculated on five year average, five best years and it was changed down to three best years, no monies were put in the system to take care of the employers share of those costs. We had a bill in here just recently which would have allowed members who were in the Peace Corps to buy-back retirement time with no one paying the employers share of the cost and would increase the unfunded liability. We had one earlier which would allow people who worked on ferry boats to do the same thing. They would have been rolled into the system and would not have paid the employers share and we would have incurred more unfunded liability against the system.

While it sounds like a tremendous amount of money, the 1.2 million dollars that was deferred during the last budget session which, by the way, only two people on the Retirement Committee opposed that 100 million dollar deferral, that is my seat mate, Representative Birney and myself. The rest of the committee went along with the Appropriation Committee's request to increase that unfunded borrowing to 102 million dollars. When we start looking at the causes for the unfunded liability, let's look within past legislatures and within the associations themselves which have made the demands for these changes which have increased the unfunded liabilities.

As I indicated earlier, I probably could talk a week on this subject, but I won't do it. I remember many of my studies which indicated that I am rapidly nearing the end of the average span of attention of most people. All of the studies that I have been able to find indicate that the average time for a person's attention span when you have a group is seven minutes. I have now reached seven minutes and thirty seconds. I will stop. Thank you very much and I ask you to defeat the pending motion.

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House: Just to clarify what we are voting on. This resolution establishes a contractual relationship between the state and public employees for pension benefits that may not be diminished or impaired. Pension benefits may be diminished only for public employees hired after the effective date of this benefit. Changing the current employee benefits as has been promised is not fair to the employee, as we saw in previous administrations.

Different benefits create inequities in workplace and inhibits recruitment of a good workforce. Those are the simple facts. Courts have disagreed on the relationship and I think one of the reasons it is time for this bill, is to clarify that issue. As the good Representative from Crystal, Representative Joy has told you, this bill will not effect current retirees like himself. The effect of the amendment would be to require consistent funding sufficient to pay the systems unfunded liability and the current cost of benefits. I am reading this from a letter we received in the Labor Committee by the Maine State Retirement System.

The unfunded liability and current cost of benefits, this stronger requirement would be a value to the systems long term health. As mentioned to you before, the ultimate decision on this issue will lay

on the hands of the people by referendum. I would encourage you to allow the people to make that decision. I would encourage your support of the Majority Report.

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

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: It is going to be quite easy for people to vote using the argument of well let's let the people decide. Keep in mind that when this goes to referendum the people will only hear the MSEA and MEA's side of the argument.

The SPEAKER: The Chair recognizes the Representative from Bucksport, Representative Bigl.

Representative BIGL: Mr. Speaker, Ladies and Gentlemen of the House: I am new here so I am not sure how this got into our constitution, but I have the register before me now and on page 44, section 18 it says, Limitation on use of funds of the Maine State Retirement System. All of the assets, and proceeds or income and all that. In spite of all that, a group of us came along a few years ago and we decided to do something with the money, other than it was intended for.

I am not one to put things in the constitution like this and I don't think we should anymore because here is one here that didn't work. I think that is important now, I have a daughter who is a teacher and her biggest concern is the unfunded liability and what the future is going to bring. This bill does not handle that. This bill does not take care of that and it won't take of us, the legislator, in future years getting into it. We will get into it if we want to. It is up to us and our ethical stance as we come in here to make sure we don't do that. I urge you to not pass this bill. Thank you.

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: I, again, plead with you to support this. The Maine State Retirement System needs protection. I think it is just very easy to want to dip into this when we are having economic bad times. There is a piece of good news, well marginally. The system's unfunded liability isn't as bad as expected and if Maine continues to contribute the 19 percent of payroll and never reduces that percentage, remember this is the problem, it should pay off the liability by 2024. That is really tough to do. It is really very tempting to have this money sitting there. I think we owe, as a state, to deliver benefits promised to workers, whether they be teachers or state employees who devote their careers to service in the State of Maine. Thank you Mr. Speaker.

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

Representative HATCH: Mr. Speaker, Men and Women of the House: Just a few issues that I would like to clear up. First of all, I sat here and I counted signatures of the 106 people. I am not sure who collected those signatures is all that important, at this point. As far as not voting for this bill, if you are involved in the system, well we have had a lot of bills before us and I know a lot of people who have voted on them that probable had conflicts of interest. I think you have to reach into your own heart and decide on that.

When we had this bill in committee we had all proponents on this bill. No one showed up in

opposition to this bill, not one opponent, think about it. I don't want you to feel guilty about signing something that may not have been distributed by another legislator. There are 106 signatures on this particular piece of legislation. This resolution establishes a contractual relationship between the state and public employees for pension benefits that may not be diminished or impaired. That is in the statement of fact. That is what it does.

For years and years and years, we have continued to attack the retirement system and believe me all good intentions aside it will continue to happen. What this bill will not do is it will not take and prevent future legislatures from reducing benefits for new hires and that is kind of to bad. I feel sorry for that, but at this point there is nothing we can do about it. I urge each and every one of you to look into your hearts and vote the "Ought to Pass" as amended Report. Thank you.

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

Representative SAMSON: Mr. Speaker, Men and Women of the House: I, like the Representative from Bucksport, also have a daughter that is a teacher and she, too, is worried about her retirement down the road. The problem we have and I agree with the Representative that the problem is the unfunded liability. It is going to take us 30 years to pay that unfunded liability off and frankly if we had this constitutional amendment 10 years ago, we probably wouldn't have this problem today.

I, too, am a taxpayer and a lot of my tax money is going into interest to make up for the money that wasn't put into the fund. It would be nice that legislators every term do the right thing, but, I think, some of us will disagree or agree that we don't always do the right things. Like Representative Plowman said, evidentially people's hands weren't slapped enough at the cookie jar and that is why we need a constitutional amendment to make it mandatory and put the money into the fund that we said we would put in for retirement for our employees. Thank you.

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

Representative JOY: Thank you Mr. Speaker. I certainly did not intend to speak three times. I would like to point out one thing and make it very clear, this constitutional amendment in no way guarantees that the money will be put into the retirement system. This only guarantees that teachers and state employees will have a contract for their retirement. There is a bill coming along that will make the system whole and it keep it whole, but it is not this one.

Also, I would like to correct the 19 percent figure, because one of the reasons for the deferral of the 100 million dollars to help balance the budget is to reduce the state's contribution to the retirement system and at the current time they are putting in 16.8 percent on teachers. The 19 percent that would help keep the system whole is not there. There were many changes that came about because of the last budget session, but I don't think that we can try to protect any system when we are just giving

people a contract for their retirement and not making sure we put the money in there to pay off the unfunded liability. Thank you very much.

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

Representative CHASE: Mr. Speaker, Men and Women of the House: I apologize for getting up, however, the Representative from Crystal, Representative Joy is absolutely correct. This does not put money into the retirement fund and, in fact, it does not really effect the unfunded liability. What it does is prevent us from reducing benefits in order to balance our biennial budget. It is that simple.

The Labor Committee listened to a number of gentlemen who were Marine Resources employees and they described their jobs to us. They described what they have to do and what condition they have to be in and the fact that they have to work until they are 62 years old, because of our trying to balance the budget, we had changed retirement benefits such that every employee is penalized by six percent for every year prior to 62 that that employee retires. If a gentleman wanted to retire at a mere 57 and we have these guys leaping from boat to boat, that employee would then suffer a reduction of 30 percent of the 50 percent of retirement that that employee got. That is the way we do it.

Representative Joy is absolutely correct. We do it two ways. We steal by extending the unfunded liability and this is not protecting that. This particular bill is preventing our attempt to balance our biennial budget by reducing benefits and once again to use an awkward phrase, balancing our budget on the backs of state employees. This bill will prevent that. Please support the "Ought to Pass".

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: As I listen to the debate, I gather that we are basically confusing some of the issues and we are comparing a little bit of apples and oranges.

Keep in mind that by law we can and have done so, for example with state police and wardens a number of years ago, where we basically said that before they could go at half salary pension they had to work 25 years rather than 20. We did that to people who began the service. In other words, we did not change people half way through the course of their employment. However, what took place in the last debate, if you remember, there were a number of proposals which, in fact, if we could have gotten away with it, there were some people in the legislature that even with amended retirement if you were vested under federal law, those who had less than 10 years.

After a number of court decisions, at least one and a number of AG opinions, we basically were told that we could not play around with people who had x number of years and thus forth vested. However, the court said you could change people who had less than x number of years and change their benefits and whatever. This is what this bill attempts to prevent. It is very simple. It seems to me a question of whether or not at the time of hire that someone is told that if they are going to retire in 25 or 30 years at whatever amount that salary is going to be, that is what it is going to be.

I agree it has nothing to do with unfunded liability per say, but it can be used by some to get

to the question of unfunded liability as it was last time or to decrease the amount of money people put into the cost of the system to pay for it for the current year, which is what previous legislatures in the not to recent past have done. Don't confuse this with what has taken place before. To the Representative from Bucksport it is now under the constitution impossible to take money from the system, however, it is possible to decrease the money going into the system that is mandated by the actuaries of the retirement system. I hope I have separated the two. That is the issue and this would prevent that as well.

If you believe in making sure that the retirement system is protected for those who are employed at whatever point between day one and roughly the 10th year, then this will solve that problem. It will also require that it be put in immediately and not simply postponed. That is what it does. I hope for those of you who are interested in protecting your daughter's retirement this helps. It is really a matter of whether or not you want to force it. I would make one other point.

It is true about the retirement system, but it is also true of other large items in the state budget, the university, the vocational colleges, and the money for education because the lump sum figures and they are not specific as to number of employees or what impact it has. It is always easy to grab money from there to do something else with, because you are not seeing directly the impact of the taking away of money. You don't see actual bodies. As some of you may have heard, for example, that, in fact, that there has been a larger cut of employees from the University of Maine system than from state employees as a percentage of employment and yet no one talks about it because it is a line item figure. Those are the differences that occur and it is what we face individually and collectively as legislators. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bucksport, Representative Bigl.

Representative BIGL: Mr. Speaker, Ladies and Gentlemen of the House: I am going to repeat again and I think the good representative just confirmed what I said earlier, the legislature if it wants to look carefully at the words that we put into the constitution can use it for our own use. We can change the words around so a future legislature can come in here and change this around like what is in here now.

I also listened to some other teachers and I listened to some teacher representatives and they told me some of the things that were important to them and some of those things are not here in this bill. One of I already mentioned, the unfunded liability. The next one is this is not transferable. They talk about transferring social security. I can go from here to there and here to there, but what can I do with my retirement fund now? That is a question they asked me when I listened to them. Another one they asked me is to get a defined contribution program. These are some important things to them. I think they want that. I would again urge you that this bill is not a good bill to pass.

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

ROLL CALL NO. 121

YEA - Ahearne, Ault, Bailey, Benedikt, Berry, Bouffard, Brennan, Bunker, Campbell, Chartrand, Chase, Chizmar, Clark, Cloutier, Clukey, Daggett, Davidson, Desmond, DiPietro, Donnelly, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gooley, Gould, Green, Guerrette, Hatch, Heesch, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Luther, Madore, Martin, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, Paul, Pendleton, Perkins, Pinkham, Poulin, Pouliot, Povich, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Spear, Stevens, Strout, Thompson, Townsend, Tripp, True, Tufts, Tuttle, Volenik, Watson, Wheeler, Winglass, Winn, The Speaker.

NAY - Aikman, Barth, Bigl, Birney, Buck, Cameron, Carleton, Chick, Cross, Damren, Dunn, Gieringer, Greenlaw, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Marshall, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Stedman, Stone, Taylor, Waterhouse, Whitcomb, Winsor.

ABSENT - Adams, Dexter, Lemont, O'Gara, O'Neal, Richardson, Rotondi, Treat, Truman, Tyler, Underwood, Vigue, Yackobitz.

Yes, 85; No, 53; Absent, 13; Excused, 0.

85 having voted in the affirmative and 53 voted in the negative, with 13 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-314) was read by the Clerk and adopted. The Bill was assigned for second reading Wednesday, May 31, 1995.

House Divided Report - Committee on Labor - (10) Members "Ought to Pass" as amended by Committee Amendment "A" (H-311) - (3) Members "Ought Not to Pass" on Resolve, to Create the Teacher Retirement Advisory Committee (H.P. 761) (L.D. 1035) which was tabled by Representative HATCH of Skowhegan pending her motion to accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Mr. Speaker, Ladies and Gentlemen of the House: I rise today in opposition to the "Ought to Pass" from the Labor Committee. I feel that an advisory committee to study teacher's monetary issues for providing a service as a coach in addition to their teaching should be left to the Maine State Retirement System to resolve the issue. It is not an issue that we should be resolving here. If it needs to be resolved here, it needs to come through as a bill and a bill only, not setting up as a committee. For that reason, I rise in opposition to this "Ought to Pass" and ask for a division on this also. Thank you.

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

Representative FISHER: Mr. Speaker, Men and Women of the House: I believe the retirement folks are interested in having this committee established. It is a committee that will not cost. The cost will be

absorbed by the retirement folks. It is an effort to square away what may be an inequity. I hope you will all accept the committee's "Ought to Pass" recommendation.

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

Representative WINSOR: Mr. Speaker, Men and Women of the House: I also urge you to vote against the pending motion and then go on to accept the Minority "Ought Not to Pass" Report.

This is just one of those silly little bills that my view I share with Representative Pendleton, it is a feel good bill. The bill really creates a panel of four individuals, three represents the industry and one represents the retirement system. Everybody involved knows what the issue is. I think a bill could be reported out and debated in the Labor Committee very well and be brought before this body to vote. The only mission they have is to define what compensation is and whether or not to include stipend in extra curricular activities as part of the earnable compensation toward retirement. The retirement system, in my understanding, is not supportive of this.

This bill would mandate that they provide help and staff assistance. They really don't have very much money to do that and have indicated as long as it isn't expensive and doesn't require any actuarial studies that amount to any money then they can provide that help. If it involves a lot of money, meaning actuarial costs, then they probably aren't going to be very effective assistance in this matter. With that I would just simply ask that you not support the pending motion and then go on to support the Minority "Ought Not to Pass". Thank you.

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: This is not a silly little bill, but it is probably a simple little bill. The bill says that this small advisory committee that is voluntary in nature that will cost very little money and the money it will cost will be absorbed by the Maine State Retirement System. All it is saying is when this committee meets the question that has been around for a long time on individuals doing extracurricular work in school systems, whether that amount of money that they earned will be earned compensation or will not be earned compensation. It is going to definitely depend on whether it is going to effect the actuarial cost. I think this committee will come up with a solution. This question has been around for a long time and hopefully it will be settled with recommendations coming from this committee. So I urge you to support the "Ought to Pass" as amended. Thank you.

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

Representative HATCH: Mr. Speaker, Men and Women of the House: I agree with the Representative from Lewiston. This bill is similar to one that was put out in 1993 and it was not completed. It was a study that was never completed. It is important to note that the initial bill called for \$1,250. The bill was important enough to the sponsor of the bill to go along with the Committee Amendment to take away all funding whatsoever for the committee members to be fully volunteer. I ask for your support on this bill. Thank you.

Representative PENDLETON of Scarborough requested a division on the motion to accept the Majority "Ought to Pass" Report.

The Chair ordered a division.

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

Representative SAMSON: Mr. Speaker, Ladies and Gentlemen of the House: I have great respect for all the members of the Labor Committee, those who agree with me and those that don't. You will notice this is a 10 to 3 decision from the Labor Committee. Actually there was divine intervention involved. I urge "Ought to Pass".

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

A vote of the House was taken. 80 voted in favor of the same and 39 against, subsequently, the Majority "Ought to Pass" Report was accepted.

The Bill was read once. Committee Amendment "A" (H-311) was read by the Clerk and adopted. The Bill was assigned for second reading Wednesday, May 31, 1995.

On motion of Representative WATSON of Farmingdale, the House adjourned at 6:30 p.m., until 9:30 a.m., Wednesday, May 31, 1995.