

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
53rd Legislative Day
Tuesday, June 6, 1995

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

Prayer by the Honorable Birger T. Johnson of South Portland.

The Journal of yesterday was read and approved.

SENATE PAPERS

Ought to Pass as Amended

Report of the Committee on Criminal Justice reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-204) on Bill "An Act to Reduce the Amount of Good Time and Meritorious Good Time Available to Persons Sentenced to Terms of Imprisonment" (S.P. 201) (L.D. 544)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-204) as amended by Senate Amendment "A" (S-212) thereto.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-204) was read by the Clerk. Senate Amendment "A" (S-212) to Committee Amendment "A" (S-204) was read by the Clerk and adopted. Committee Amendment "A" (S-204) as amended by Senate Amendment "A" (S-212) thereto adopted and the Bill assigned for second reading Wednesday, June 7, 1995.

Ought to Pass as Amended

Report of the Committee on Criminal Justice reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-208) on Bill "An Act to Protect the Rights of Children Who Have Been Victims of Sexual Abuse" (S.P. 533) (L.D. 1471)

Came from the Senate with the Report read and the Bill and accompanying papers recommitted to the Committee on Criminal Justice.

Report was read and the Bill and accompanying papers recommitted to the Committee on Criminal Justice in concurrence.

Non-Concurrent Matter

Resolve, Requiring the State to Fulfill Its Commitment to Provide Adequate Mental Health Services for Senior Citizens in the Eastern Maine Area (EMERGENCY) (S.P. 35) (L.D. 65) on which Report "A" **"Ought to Pass"** as amended of the Committee on Human Resources was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-165) in the House on June 1, 1995.

Came from the Senate with that Body having insisted on its former action whereby Report "B" **"Ought Not to Pass"** of the Committee on Human Resources was read and accepted in non-concurrence.

The House voted to Adhere.

Non-Concurrent Matter

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

Energy was read and accepted in the House on May 31, 1995.

Came from the Senate with that Body having insisted on its former action whereby Report "B" **"Ought to Pass"** as amended by Committee Amendment "A" (S-117) of the Committee on Utilities and Energy was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-117) in non-concurrence.

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

Non-Concurrent Matter

Bill "An Act to Allow Earlier Awarding of Funding of Intervenor in Cases before the Public Utilities Commission" (H.P. 647) (L.D. 870) on which the Majority **"Ought to Pass"** as amended Report of the Committee on Utilities and Energy was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-318) in the House on June 1, 1995.

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

Representative TAYLOR of Cumberland moved that the House Recede and Concur.

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

Representative HEESCH: Thank you Mr. Speaker, Members of the House: I urge you to oppose the Recede and Concur motion so we may go on to Adhere. This bill was a 12 to 1 Report out of the Utilities Committee. It adds no new ability for any intervenor to receive funding, it gives to Public Utilities Commission the ability to make a decision earlier in the process, as to someone's qualification and to, if someone is going to be qualifying as an intervenor they may receive some funding a little bit earlier in the process, so that they may continue their case.

Since 1980 there have only been three awards of intervenor funding at all, the awards in the 1980 rate design case weren't made until 1989. The results of one of the intervenors in that particular case was that ratepayers, all ratepayers, were saved 15 million dollars because it was determined that there was an inappropriate application of federal tax credit. I think that a lot of times the intervenors, in order to qualify for funding they have to be contributing something to the case. It is a three part test, in order to qualify for intervenor funding.

If I may read from the Public Utility Commission's letter in support of this bill. The three part test, all of which an intervenor has to meet, include one, the intervenor's participation is not duplicative, that is it can't be something the Public Advocate or the PUC staff is representing. Second, the participation without funding would cause significant financial hardship to the intervenor, i.e., they wouldn't be able to do it. Third, the intervenor's participation contributes substantially to the commission's decision in the case. The PUC and the Public Advocate were supporters of this particular bill. Again, I urge you to defeat the pending motion so that we may go on to Adhere.

Representative AHEARNE of Madawaska 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 Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: Curious things happen to bills after they leave committee and this is an example of such an incident. The committee worked cooperatively in a nonpartisan way to work with the Public Advocate and the Public Utilities Commission as you heard from the Representative from Wilton, Representative Heesch.

The action in the other body has no particular explanation to me. What you heard from the Representative from Wilton, Representative Heesch is exactly what we heard in committee. Intervenor status is an important element in ensuring public participation in the regulatory process. There was no disagreement about the importance of that participation at the committee level and I urge you to defeat the pending motion. Thank you.

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

A vote of the House was taken. 48 voted in favor of the same and 62 against, the motion to Recede and Concur was not accepted.

Subsequently, the House voted to Adhere.

Non-Concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Line-item Veto (CONSTITUTIONAL AMENDMENT) (H.P. 729) (L.D. 1003) which failed of final passage in the House on June 5, 1995.

Came from the Senate finally passed in non-concurrence.

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

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 Address a Shortfall in the Maine Ground Water Oil Clean-up Fund and Change the Financial Assistance Program for Owners of Underground Oil Storage Facilities" (EMERGENCY) (H.P. 1119) (L.D. 1563) (Presented by Representative GOULD of Greenville) (Cosponsored by Representatives: DAMREN of Belgrade, MERES of Norridgewock, POULIN of Oakland, Senator: RUHLIN of Penobscot) (Governor's Bill)

REPORTS OF COMMITTEES Ought to Pass as Amended

Representative TREAT from the Committee on Judiciary on Bill "An Act to Provide Merchants Greater Recourse to Combat Deceptive and Illegal Practices" (H.P. 359) (L.D. 479) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-360)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-360) was read by the Clerk and adopted and the Bill assigned for second reading Wednesday, June 7, 1995.

Ought to Pass as Amended

Representative CHICK from the Committee on Inland Fisheries and Wildlife on Bill "An Act to Clarify the Registration of Snowmobiles by Nonresidents" (H.P. 604) (L.D. 814) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-375)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-375) was read by the Clerk and adopted and the Bill assigned for second reading Wednesday, June 7, 1995.

Ought to Pass as Amended

Representative TREAT from the Committee on Judiciary on Bill "An Act to Amend the Maine Civil Rights Act to Provide Greater Protections to Reproductive Facilities" (H.P. 866) (L.D. 1216) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-361)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-361) was read by the Clerk and adopted and the Bill assigned for second reading Wednesday, June 7, 1995.

Divided Report

Majority Report of the Committee on Legal and Veterans Affairs reporting "Ought Not to Pass" on Resolve, Authorizing Verne Lee to Sue the Department of Human Services and the State of Maine (H.P. 89) (L.D. 124)

Signed:

Senators:

Representatives:

STEVENS of Androscoggin
FERGUSON of Oxford
FISHER of Brewer
TRUE of Fryeburg
NADEAU of Saco
MURPHY of Berwick
BUCK of Yarmouth
LEMONT of Kittery
CHIZMAR of Lisbon
GAMACHE of Lewiston
LABRECQUE of Gorham

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-356) on same Resolve.

Signed:

Senator:

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 State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-357) on Bill "An Act Concerning Reasonable Standards and Procedures for Contracting Services by the State" (H.P. 332) (L.D. 453)

Signed:

Senator:

Representatives:

LONGLEY of Waldo
DAGGETT of Augusta
AHEARNE of Madawaska
LEMKE of Westbrook
SAXL of Bangor

GERRY of Auburn
ROSEBUSH of East Millinocket
Minority Report of the same Committee reporting
"Ought Not to Pass" on same Bill.

Signed:
Senators: AMERO of Cumberland
CARPENTER of York
Representatives: ROBICHAUD of Caribou
LANE of Enfield
SAVAGE of Union
YACKOBITZ of Hermon

Was read.

Representative DAGGETT of Augusta 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 **Utilities and Energy** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-345) on Bill "An Act to Establish Qualifications for Public Utilities Commissioners" (H.P. 713) (L.D. 970)

Signed:
Senator: CLEVELAND of Androscoggin
Representatives: KONTOS of Windham
ADAMS of Portland
TAYLOR of Cumberland
GIERINGER of Portland
O'NEAL of Limestone
POULIN of Oakland
LUTHER of Mexico
HEESCHEN of Wilton
POIRIER of Saco

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

Signed:
Senators: CARPENTER of York
HARRIMAN of Cumberland
Representative: STONE of Bangor

Was read.

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

The Bill was read once. Committee Amendment "A" (H-345) was read by the Clerk and adopted. The Bill was assigned for second reading Wednesday, June 7, 1995.

Divided Report

Majority Report of the Committee on **Legal and Veterans Affairs** reporting **"Ought Not to Pass"** on Resolve, Authorizing Glen Greenhalgh to Sue the State of Maine and the Department of Human Services (H.P. 786) (L.D. 1103)

Signed:
Senator: FERGUSON of Oxford
Representatives: FISHER of Brewer
BUCK of Yarmouth
NADEAU of Saco
LEMONT of Kittery
CHIZMAR of Lisbon
GAMACHE of Lewiston
LABRECQUE of Gorham

Minority Report of the same Committee reporting
"Ought to Pass" as amended by Committee Amendment "A" (H-355) on same Resolve.

Signed:
Senators: STEVENS of Androscoggin
MICHAUD of Penobscot
Representatives: MURPHY of Berwick
TRUE of Fryeburg

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 **Education and Cultural Affairs** reporting **"Ought Not to Pass"** on Bill "An Act to Improve the Education of Exceptional Children" (H.P. 800) (L.D. 1117)

Signed:
Senators: SMALL of Sagadahoc
ESTY of Cumberland
ABROMSON of Cumberland
Representatives: AULT of Wayne
BARTH of Bethel
DESMOND of Mapleton
STEVENS of Orono
CLOUTIER of South Portland
LIBBY of Buxton
McELROY of Unity
BRENNAN of Portland
MARTIN of Eagle Lake

Minority Report of the same Committee reporting
"Ought to Pass" on same Bill.

Signed:
Representative: WINN of Glenburn
Was read.

Representative MARTIN of Eagle Lake moved that the House accept the Majority **"Ought Not to Pass"** Report.

On motion of Representative WINN of Glenburn, tabled pending the motion of Representative MARTIN of Eagle Lake to accept the Majority **"Ought Not to Pass"** Report and later today assigned.

Divided Report

Majority Report of the Committee on **Legal and Veterans Affairs** reporting **"Ought Not to Pass"** on Bill "An Act to Restrict Private Political Campaign Contributions in State Elections" (H.P. 923) (L.D. 1299)

Signed:
Senators: STEVENS of Androscoggin
MICHAUD of Penobscot
FERGUSON of Oxford
Representatives: TRUE of Fryeburg
NADEAU of Saco
MURPHY of Berwick
LEMONT of Kittery
CHIZMAR of Lisbon
FISHER of Brewer
GAMACHE of Lewiston
LABRECQUE of Gorham

Minority Report of the same Committee reporting
"Ought to Pass" as amended by Committee Amendment "A" (H-354) on same Bill.

Signed:
Representative: BUCK of Yarmouth

Was read.

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

On motion of Representative CARLETON of Wells, tabled pending the motion of Representative NADEAU of Saco to accept the majority **"Ought Not to Pass"** Report and later today assigned.

CONSENT CALENDAR

First Day

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

(H.P. 1059) (L.D. 1488) Bill "An Act to Amend the Real Estate Laws Concerning Validation of Defects" Committee on **Judiciary** reporting **"Ought to Pass"**

(H.P. 1062) (L.D. 1497) Bill "An Act to Clarify the Operations of the Maine Board of Bar Examiners" Committee on **Judiciary** reporting **"Ought to Pass"**

(H.P. 845) (L.D. 1176) Bill "An Act to Amend the Maine Cancer Registry Law to Require the Reporting of All Cancer Cases to the Department of Human Services" Committee on **Human Resources** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-370)

(H.P. 919) (L.D. 1295) Bill "An Act to Conform Maine Law with the Provisions of the Federal Clean Air Act and the Internal Revenue Code Pertaining to the Use of Dyed Fuel on Highways" (EMERGENCY) Committee on **Taxation** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-371)

(H.P. 963) (L.D. 1372) Bill "An Act to Change Eligibility for the Elderly Low-cost Drug Program" Committee on **Taxation** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-364)

(H.P. 1017) (L.D. 1432) Bill "An Act to Amend the Laws Regarding Workers' Compensation Pilot Projects" Committee on **Banking and Insurance** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-362)

(H.P. 1023) (L.D. 1438) Bill "An Act to Create Wet-weather Water Quality Standards" Committee on **Natural Resources** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-366)

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, June 7, 1995 under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(S.P. 350) (L.D. 978) Bill "An Act to Transfer Responsibility for Approval of Employee Assistance Programs"

(S.P. 523) (L.D. 1421) Bill "An Act to Preserve Deteriorating and Irreplaceable Historic Battle Flags and Banners"

(S.P. 250) (L.D. 647) Bill "An Act to Amend the Laws Regarding Use and Acquisition of State Property" (C. "A" S-201)

(S.P. 338) (L.D. 919) Bill "An Act to Amend the Continuing Care Retirement Community Law" (C. "A" S-194)

(S.P. 438) (L.D. 1206) Bill "An Act to Amend the Medical Examiner Act" (C. "A" S-198)

(S.P. 534) (L.D. 1472) Bill "An Act to Require That Physicians Providing Services from Another State to Patients Located in Maine Be Licensed by the State" (C. "A" S-197)

(H.P. 522) (L.D. 712) Bill "An Act to Make Allocations from the Transportation Safety Fund for the Fiscal Years Ending June 30, 1996 and June 30, 1997" (EMERGENCY) (Governor's Bill) (C. "A" H-348)

(H.P. 692) (L.D. 943) Bill "An Act to Create an Honorary Position of Maine State Poet Laureate" (C. "A" H-350)

(H.P. 954) (L.D. 1343) Resolve, Establishing a Commission to Study the Trespass Laws (EMERGENCY) (C. "A" H-344)

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

(H.P. 1009) (L.D. 1424) Bill "An Act to Provide for the Dissolution of the Town of York School District"

On motion of Representative CAMERON of Rumford was removed from the Second Day Consent Calendar.

The Report was read and accepted. The Bill read once. Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Representative CAMERON of Rumford presented House Amendment "A" (H-378) which was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-378) and sent up for concurrence.

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Repeal Point-of-sale Fees for Future Disposal of Certain Items" (S.P. 84) (L.D. 203) (C. "A" S-190)

Bill "An Act to Increase Levels of Property Tax Relief Found in the Maine Residents Property Tax Program" (H.P. 450) (L.D. 616) (C. "A" H-333)

Bill "An Act to Amend the Law Relating to Municipal Service Fees and to Modify the Reimbursement Policy for Hospitals to Recover Service Fees Paid" (H.P. 550) (L.D. 746) (C. "A" H-244)

Bill "An Act to Limit the Size of Drag Nets Used in South Bay in Eastport" (H.P. 605) (L.D. 815) (C. "A" H-358)

Bill "An Act Concerning Technical Changes to the Tax Laws" (EMERGENCY) (H.P. 686) (L.D. 937) (C. "A" H-347)

Bill "An Act to Establish Municipal Cost Components for Unorganized Territory Services to Be Rendered in Fiscal Year 1995-96" (EMERGENCY) (H.P. 701) (L.D. 959) (H. "A" H-368 to C. "A" H-336)

Resolve, to Create a Task Force on Economic Development Tax Incentives (EMERGENCY) (H.P. 858) (L.D. 1189) (C. "A" H-339)

Bill "An Act to Promote Long-term Economic Development through the Establishment of the Maine Technology Investment Fund" (EMERGENCY) (S.P. 511) (L.D. 1370) (C. "A" S-196)

Bill "An Act to Prohibit the Sale of Firearms to Minors without Parental Approval" (S.P. 550) (L.D. 1509) (C. "A" S-199)

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

Resolve, to Improve Postsecondary Education in the State (EMERGENCY) (H.P. 361) (L.D. 481)

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

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

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

ENACTORS

An Act to Establish the Maine Outdoor Heritage Fund (I.B. 3) (L.D. 717) (C. "A" H-279)

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.

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)

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

On motion of Representative JACQUES of Waterville was set aside.

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

An Act Protecting a Citizen's Right of Petition under the Constitution (H.P. 576) (L.D. 781) (C. "A" H-300)

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

On motion of Representative JACQUES of Waterville was set aside.

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

An Act to Amend the Laws Governing HIV Testing at the Request of Victims of Sexual Assault (H.P. 589) (L.D. 799) (C. "A" H-299)

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

On motion of Representative JACQUES of Waterville was set aside.

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

Resolve, to Create the Teacher Retirement Advisory Committee (H.P. 761) (L.D. 1035) (C. "A" H-311)

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

On motion of Representative JACQUES of Waterville was set aside.

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

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

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

House Divided Report - Committee on Legal and Veterans Affairs - (12) Members "Ought Not to Pass" - (1) Member "Ought to Pass" as amended by Committee Amendment "A" (H-356) on Resolve, Authorizing Verne Lee to Sue the Department of Human Services and the State of Maine (H.P. 89) (L.D. 124) 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 Crystal, Representative Joy.

Representative JOY: Thank you Mr. Speaker. This is a bill that I put in by request, on behalf of Verne Lee and it is a very difficult bill for me to submit to this body.

First of all, I have a tremendous aversion to opening up the state to lawsuits. However, I talked to this young man about two years with regard to the handling that he had had at the hands of the Department of Human Services and the District Court in Houlton. Two ladies came down to provide testimony of their own harassment and inappropriate handling of their cases. I think those people who were there at the committee, even though they elected not to come out in favor of the Minority "Ought to Pass" Report would tell you that this young man had documentation in books which would put some of our notebooks that are here on the front of our desks to shame. One of the things that I must be careful of here and I will try not to violate the confidentiality that is inherent in this type of case.

This young man and his wife had some problems and they filed for assistance to help them with their children while they were trying to seek counselling to, hopefully, save their marriage and keep a whole family. They got back together again and this did not last very long and they separated again. Immediately in an effort to try to gain more leverage for some reason or other, the mother accused the father of child abuse. The child was immediately taken to the doctor and the doctor said absolutely not, there was no sign of any child abuse.

It is interesting because this was related in the testimony given by persons from DHS. In the very next paragraph of their testimony, DHS without, at that point in time, gone to court judged him guilty, despite the fact that there was no evidence indicating that he might have been guilty. The Senator who was a member of this body, you will note his name is on the Minority Report, told me he has had more complaints with regard to DHS in the Houlton area since taking over as representative for that district, than he has ever had in all the years he served in the House with regards to the Penobscot DHS.

Unfortunately these people have a very strong tendency to play God and have ruined many people's lives and destroyed many families. In the course of my investigation of this matter and several others involving DHS, these people reported to me that the

presiding officer of the court had indicated that he would rule 100 percent in favor of DHS and would be right 70 percent of the time. If it is true and I have not been able to get a statement from him, I think it is a terrible travesty of justice. This young man has, needless to say, had his life ruined by action taken here. There are those who probably will tell you that he has had his day in court because he has had four appearances before the court. No efforts are being made to reunite this man and his family and to give you some idea of the highhandedness of DHS in this case, he has a niece that goes to the same school where his daughter goes. His niece carried on the message to his daughter that he loved her very much and missed her.

The DHS was notified by the foster parent. The DHS then came to the school and questioned the niece without bothering to notify her parents and gave her a real rough time, which is contrary to all accepted policies of law enforcement agencies and children. Yet he is still not offered any respite in the court. One of the things that must be remembered is at any time that this young man or any young man appeals his particular situation in the court then DHS will only review that information that has already been presented. He is not allowed to present new testimony. He is not allowed to pursue his case further.

This young man is only seeking to be exonerated and hopefully to have some type of a reuniting with his family. Another reason this was an extremely difficult bill for me to present and the reason it took me two years to finally make the decision to submit this bill on his behalf, the members of the Criminal Justice Committee can attest to this that I submitted legislation which would require notification of convicted child abuse reviews upon their release from prison. That bill was killed, but the concept was maintained and they will be coming out with a bill to take the place of the four which were submitted and that made it doubly difficult for me to present this bill. After two years of investigation and having similar complaints filed with regards to the highhandedness of the DHS in Houlton and assuring myself that this man was innocent, I submitted this legislation.

I realize there are many people here and many people on the Legal and Veterans Affairs Committee who do not believe in allowing suits to be brought against the state. I guess I only ask that this young man have a chance to prove his innocence. I would ask you to defeat the pending motion and accept the Minority "Ought to Pass" as amended motion. I am sure that most of you will give strong credibility to the former member of this body who's name is on the Minority Report. I would have hoped that I could have had support of many of the members of this House, but for one reason or another they elected not to support the issue. Once again, I urge you to defeat the pending motion and accept the "Ought to Pass" as amended motion and allow this young man his day in court.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: Of all the bills I have ever heard in my tenure in this body, suits against the state, child custody cases, which this is one, are the most troublesome I have ever heard in my life. I can tell you my humility statement right off the bat. Now I

will make a very arrogant statement and I will disclaim that right off. The arrogant statement is I have no intention of trying to go through this whole case and possibly touch on some nerves and emotions. I think you collectively have more important matters to do.

I will only point out a couple of facts. This is a 12 to 1 report and that should say something. Some of the stuff that went on in our committee during this particular hearing, I don't think you need to be exposed to. The next fact, this gentlemen has had "his day in court". As a matter of fact, he had four of them. I am not an attorney, never pretended to be and don't really want to be. However, I am a legislator and I am in this body. If, in fact, there was, should have been, would be or any of those hypothetical comments, an element of a case, I would suspect that the court would have seen that, there were four different occasions. This is a legislative body, as we all know and there is a Judicial Branch of Government, which we all know about from the civic lessons we took at one point. I don't think this body wants to transform itself, even if it is for five minutes, into the Judicial Branch.

I think it is also very important to realize that in addition to the 12 to 1 and in addition to the fact that the law courts have ruled, you ought to know that this is basically a situation which happened in Northern Maine, in the county, and there have been some strong allegations regarding this certain judge and some of the off the record comments he might have made about the, I rule with DHS 100 percent of the time and I am bound to be right at least 80 percent. Nobody has confirmed that, so I would probably take an attorney's position right now and say, jury I would like you to disregard that comment. It has no validity. Nobody has proven that. Believe me everybody on our committee questioned, cross examined or what ever you want to call it, that particular statement.

I really don't feel that this House wants to get in the business of trying to rehear an issue. Therefore, I would strongly urge you to accept the Majority "Ought Not 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 can understand the good Representative from Saco's reluctance to allow suits against the State of Maine. However, I did talk to many attorneys who take cases into the Houlton Court. It is their opinion that they only will very reluctantly take a case in that involves DHS. I wish that the members of the committee could have been in front of the State and Local Government Committee when one of the attorneys from Houlton was down there testifying on the bill to require courteous treatment by state employees. Had you been there, you would have had first hand knowledge of just exactly what takes place when they go to court in a DHS case.

I think that the only way justice can be served in this case is to allow this young man his day in court. It is one thing to go to court when you are charged and have to spend all of your time defending yourself, it is another thing to go in court when you are the one who is seeking restitution. I think the Representative from Saco has made an admirable case, but I think he fails to realize that this young man should have his day in court when he is not being accused.

I got a note from a very distinguished member in this body who agrees with me. He is very much opposed to people suing the state and I certainly appreciate the note that I got supporting my position. I would again ask you to defeat the "Ought Not to Pass" motion and accept the "Ought to Pass" motion. Mr. Speaker when the vote is taken I request a roll call.

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

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

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

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

Representative MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: Over the years I have been involved in a number of cases involving these kinds of situations where people have called, basically asked if there is any way that anything can be done to assist them when they have been wronged in a child custody cases involving the Department of Human Services. I can assure you it is one of the more difficult areas, I think, for those of you that have not been legislators a long time, but over the years if you stay in this body or in the other, you will get to realize that one of the real problems in the existing laws of this state which department employees operate under, is that it is not a question of guilt or innocence, it is a question of whether or not someone makes the complaint.

It is not a question of whether or not they have been found guilty, it is whether someone doesn't like the next door neighbor, in many instances. An example in which there is a divorce situation that happens to be very bitter between the two parties, where accusations are made because they think it is going to help them in the divorce proceedings or the child custody case. It is the kind of thing that is the most heart wrenching. As a matter of fact, I suggested to someone the other day when I was asked, I have almost reached the point where we ought to legislate that when a divorce is filed that the children be removed from the home, either one or both and given to the grandparents in the mean time, until custody is granted and approved. The children become the pawns of the divorce in many instances. It is the children who get hurt, obviously the parents are the process of that injury.

Specifically in this case, I know nothing about the facts, but I do know enough about things happening that I am willing to let people go to court to find out whether or not they have a case against the department. It is time that we in effect allow, if nothing else, one case to proceed so standards can be established that other employees of this state can use, because they are out there helpless as well. With guidelines, if you haven't read them, you should, because you would be shocked as to what it is they end up having to do, not because of their fault, but because of guidelines. I would also point out lack of training.

The turnover rate in this particular division in state government is extremely high and it is caused, in part, by lack of salary that we give those people, frankly the battle grounds that they end up in when they go in to remove children from homes. I don't know why people even bother to get those kinds of jobs and work for us as a state. We don't pay them enough. We ought to be paying them more than police officers make, because I think every time they go into a situation like that, very often they put their life in danger, because one of the parties is going to be after them. It is unbelievable if you have never been involved, I hope you never are. If you have never been called in a situation like that, I hope you never are.

It is the most unpleasant and most difficult situation that you will ever find yourself in. Having said that, I have no idea about the case and I know it is a 12 to 1 report and I don't like to go against committee Chairs, because I don't like people to go against me, but I know in my heart that the way in which to resolve a situation like this is to allow it to go to court and let the court system decide. It is the only way that this person is going to get a day in court. It is the only possible way. I don't know the person. I don't know the facts. I don't know the situation, but it seems to me that we have to allow some of these cases to go in and let the process work and let the standards be established in the long run. I unfortunately have to ask you to vote against the motion of the Representative from Saco, because I think it is the right thing to do.

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

Representative LABRECQUE: Mr. Speaker, Ladies and Gentlemen of the House: I would have to agree with the comments that Representative Nadeau made. As a member of the Legal and Veterans Committee on series of bills that appear before this committee that I found extremely difficult to deal with those involving allowing individuals to sue the state. Everyone of those cases are heart-rending, but you do have to step back and address the issue. The issue is, should this individual be allowed to sue the State of Maine because he or she has not had their due process in court.

First of all, I am not a lawyer, but I do step back and apply some common sense and I say to myself, exactly who is the State of Maine. I am the State of Maine. You are the State of Maine. Therefore, do you want to sue yourself? The individual bringing the case against the state is also the State of Maine. Should that individual be allowed to sue himself? The reams of paper that we received from the Attorney General's Office indicate that that is what they base their decision on in advising us that people should not be allowed to sue the state. There comes a time in the due process system when the answer has been no through the court systems and the individual has to accept that and get on with the rest of their lives.

In this particular instance this individual has had his time in court and it is my understanding that he is still in one process and still has the opportunity to do one more appeal and is in that process. I would urge you to support the Majority "Ought Not to Pass". Thank you.

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

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I agree with the good Representative, Representative Nadeau that we shouldn't put ourselves in the position of the judiciary. I would contend that if you support this Majority "Ought Not to Pass" Report that is exactly what we are doing, because if we vote "Ought Not to Pass" on this bill, this gentlemen is not going to ever have a chance to let the judiciary do its job. I would urge you to vote no on the "Ought Not to Pass", so the "Ought to Pass" can proceed. Thank you.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I am going to do something now that I don't usually do. I was not at the public hearing on this bill. I did read the piece, but I guess maybe I didn't pay enough attention to it because the things Representative Joy said here today, if I had known I would have voted it out "Ought to Pass".

I have been here a while and I have been involved in a few of these cases. We had one case in particular where the person went to court, before a jury of his peers, and it was found that they did not have enough evidence to find him guilty. Therefore, she was found innocent. The DHS came out and said that maybe if we had another judge, we would have found him guilty. The jury found him not guilty, that did not mean he was innocent. They almost ruined that young man's life. He has left the State of Maine. I get a Christmas card from him once a year. He seems to be doing quite well.

The attitude of the Department of Human Services that if we had another judge, I would like to believe that our judicial system is so that when the facts are presented, no matter who the presiding judge is, they would use the same reasoning and come out with the same answer. This is the arrogance of the Department of Human Services and I think maybe they should have to stand up in a higher court and answer some questions, because nobody knows how damaging it is to a person. I always said, if a man is accused of child abuse or child molesting in this state, he has two choices. He can run or he can commit suicide and that is about the only two choices he has.

As far as the Department of Human Services is concerned once they get a suspicion that you have done it, you are guilty. It is not innocent until proven guilty, it is guilty until you prove yourself innocent and they never accept that. I am going to vote "Ought to Pass" on this and I urge you to also. Thank you.

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

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House: I rise just briefly to tell you I am from Houlton and I concur with the Representative from Crystal, Representative Joy with the heavy-handedness of the Human Services Department in Houlton. I have been involved with a case myself, which I am not going to go into, but I can tell you that it involved a little four year old boy being taken away from his mother for what I consider to be no good reason. I can't believe what they put that woman through before she got that little boy back. I urge you also to vote against the "Ought Not to Pass" Report. Thank you.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: I obviously don't know a lot about this issue than any more than some of the previous speakers have indicated they don't. We have to rely on our colleagues to give us the information that we need to make this decision. To me there is a bigger issue here. To me the bigger issue is why, I have never been able to understand, we do not expect government and government's agents to be held to the same standards that we expect our neighbors to be held to.

In my understanding of the way our government works, the citizens of this state and this country are the leaders of a democracy. It is not the leaders, we are here at their pleasure and we pass laws that hold them accountable for their acts and deeds. It is beyond me to understand why we would expect the state not to be held accountable to those same standards. I constantly hear debates on this floor particularly about professional people and I hear the comment made, they are professional people and we should hold them to a higher standard. Well just because they are professional people, not in the government, should not mean that they should be held to a higher standard than the representatives of the people, which includes those of us in this room.

I think that it is high time in the process of making laws in this state and country that we expect our government to live by the same standards that we expect the citizens to live by. I would urge you to vote against the motion that is on the floor so we can go ahead and pass this bill. If it becomes a test case, so be it. I, like the Representative from Eagle Lake, think that it is time that we let the process work the way it is supposed to, without us derailing the process. 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 it is very important to realize that this legislative body has dealt with, or will in the very near future, approximately 1,500 bills. I am told, although I am not positive of the exact number, the Legal and Veteran Affairs Committee has 130 of those. We have had a grand total of a half dozen bills of this nature. I throw those numbers at you for the simple reason that I want to try to impress upon you that we are talking individual constituent cases.

If this body, all the legislation that is proposed, basically comes about because somebody, probably in your district, thought that something was a problem or a concern that needed to be addressed. However, in these particular matters we are talking somebody had a concern with DHS or with a state agency in this case in a particular part of the state. I am not a lawyer, I told you that the first time. I still am not a lawyer. However, I do know something about, there is this little technicality that is called a request for a change of venue. Has that ever happened? In some cases it has. Has it ever happened here? No. Why has it not happened? Because somebody's attorney was not quite on the ball. If he were my attorney, I probably would have fired him.

I guess I am asking you, should this body be asked to try to overturn somebody's less than first string attorney. I don't think we need to get into these cases. There have been four different chances as the Representative from Gorham, Representative Labrecque

mentioned. There have been appeals on a couple of those. To my recollection there is still a possibility of a legal appeal. It doesn't have to come from this body and I would submit to you, I don't think it should come from this body. I think we have already spent probably way too much time, more than this matter deserves in this chamber, therefore, I will cease here and again repeat, I would urge you to accept the 12 to 1 "Ought Not to Pass" Report.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: I would disagree with the previous speaker. I have been involved with some of these issues over the years that I have been here, but on another case not dealing with Human Services Department, but a few years ago, I was involved with a case that involved the Department of Corrections. We did succeed passing a bill in this body and getting it through. What happened was we went through the process and it wasn't a big sum of money that we were dealing with, but the fact remains that by this body and the other body enacting a law, we were able to prove that the case that I was involved with that the state was wrong. I think that is what we are looking at today.

All we are doing is asking this gentlemen to have another chance that maybe, just maybe, the state is not always right. I think if you vote today for "Ought Not to Pass", we are assuming that the state is always right. I don't want to be in that position and I am willing to give this young man another chance.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I am somewhat reluctant to speak on this because I haven't been on the committee that has listened to the facts of the case, but I would just like to speak globally to the issues of suits against the state and the problems that the Department of Human Services has in carrying out their mission.

First in regard to the suits against the state. One of the standard questions that is asked before allowing a suit against the state to go forward is, are there any other remedies. Have all other remedies been exhausted? From what has been said, I am assuming there is still the opportunity that the judicial system is still involved and there is an opportunity for an appeal. Those remedies should be allowed to continue to their furthest extent before we choose to do something like allowing a suit against the state.

We also have the other option, which I believe was mentioned earlier by the current Chair of the committee and that is to simply remove immunity. If you feel that Human Services workers should not or the state should not have immunity in these kind of cases, remove it. Remove it for all, if there is the potential, if there can be a general law that would be passed that would take care of this then, let's do it. What this asks is a private and special law for this one person. If that is what you choose to do, is to one special law for this person, then so be it. What the appropriate thing to do if you are concerned about immunity for human services workers is to pass a general law so that everyone has the opportunity to sue the state if they are

uncomfortable or unhappy with the judicial decision or a decision that has to do with custody. There are other ways to deal with this. Let's look at the whole issue, not just isolate this one.

I would like to speak generally regarding the Department of Human Services. The Department of Human Services has a mission to protect children. When you allow these kinds of suits to go forward you are saying we don't really care about that mission of protecting children. We don't care about that mission. The department is hampered by issues of confidentiality and cannot frequently get its case in front of the public. You are hearing one side or one part of the information, not the other side. I would like to ask you how often we have heard one side and said, gee, I believe that is true. Then you hear the other side and say, gosh, I never thought of that. Those people that are not happy can get their side out in front of the public as often and as well as they want to, but the department cannot put their side out in front of the public.

Earlier Representative Joy made reference to testimony in front of the State and Local Government Committee regarding an attorney and how that person was unhappy with decisions and behavior of Human Services. It is very easy to make allegations and comments when there is no one there to rebut it. I want to tell you that I speak to you as a former Chair of the Legal Affairs Committee and as a former Human Services worker. I have seen children returned to homes by judges and had those children killed, because no one wanted to believe the child was in jeopardy. I urge you to support this "Ought Not to Pass" report.

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

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

The SPEAKER: The Representative may pose his question.

Representative JACQUES: Thank you. To anyone who may care to answer. Since DHS doesn't have any of their own money and that my people are part of the State of Maine, who ultimately will have to pay, my first question is there a cap on the amount of damages that can be received should this suit go through? Number two question, where is that money going to come from? Will it have to be budgeted by Appropriations this year? Will this bill end up on the table and await funding in competition with all the other things on the table?

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

Representative JOY: Thank you Mr. Speaker. The amendment does cap the amount at \$75,000. With regard to the answer to the second question, I cannot answer that question.

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

Representative JACQUES: Thank you Mr. Speaker and I thank the Representative from Crystal, Representative Joy. I guess the other part of my question to anyone who might answer. My understanding based on what the Speaker just read that \$75,000 would have to be plus interest and other

costs would have to be budgeted for by Appropriations from the general fund in case, in fact, the people who were suing were successful. Is that not accurate?

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

Representative MARTIN: Thank you Mr. Speaker, Members of the House: In direct response to the Representative from Waterville, if, in fact, the state would be found negligent, that would be a debt that the state would owe and would be in the next budget, not this one.

Let me just make a couple of additional points. There are other instances in the state laws which allow for the state to be sued. We have to have allowed passage of such a law. They do exist in state law. For example, there exists already in the Department of Transportation a provision to whatever level you can be sued to, if the Department of Transportation is, in fact, negligent. I was involved in the passing of a law which deals specifically with someone who has been wrongly incarcerated. It involved an incident that supposedly occurred in Ellsworth where a person was sent to the State Prison and, in fact, was not the guilty party. Governor Longley subsequently pardoned the individual for a crime that he had never committed. The legislature subsequently created a piece of legislation which allowed the individual to sue the state for wrongful incarceration.

Two years ago that sunset took place and that was reinstated into the law and that law is on the books now. If and when that occurs again, that amount will need to be budgeted. It is no different than a workers compensation claim against the claim for an individual. I am not suggesting that it be an open trough. It has to be limited. On the other side of that coin, this process that we are using to determine whether or not the state ought to be sued is not a very good one either. It seems to me that we ought to consider in the long run a body, board or commission that reviews these cases to see whether or not there is sufficient evidence for the case to move to this body to then allow a potential suit to be filed against the state.

In fact, there is such an animal that exists. It is called the claims division within the Business Regulation Department, but that is used primarily, for example, for kids who leave the Youth Center and then damage vehicles or property in the neighborhood. The small claims commission board then allows for payments to be made in those instances where they believe the state was at fault. In this particular instance we have no recourse. What this case would cost the state, in fact, would be legal fees, because they right now would have to be involved in defending the state. I don't know what else to do. I just believe that individuals ought to have a right to have their day in court. If this is the only opportunity that the individual has, I believe that the individual should be granted that right.

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

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

The SPEAKER: The Representative may pose his question.

Representative GREENLAW: How many bills do we have before this body and how much money does the state have? When should that enter into what is justice?

The SPEAKER: The Representative from Standish, Representative Greenlaw has posed a question through the Chair to anyone who may care to respond.

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

ROLL CALL NO. 134

YEA - Adams, Benedikt, Brennan, Carleton, Chartrand, Chase, Chizmar, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Fisher, Fitzpatrick, Gamache, Gates, Hatch, Heino, Jacques, Johnson, Kontos, Labrecque, LaFountain, Lemke, Libby JD; Mitchell EH; Mitchell JE; Nadeau, Pendleton, Povich, Robichaud, Rowe, Saxl, J.; Sirois, Stevens, Thompson, Townsend, Treat, True, Tyler, Volenik, Watson.

NAY - Ahearne, Aikman, Ault, Bailey, Barth, Berry, Bigl, Birney, Bouffard, Buck, Bunker, Cameron, Campbell, Chick, Clark, Clukey, Cross, Damren, Dexter, Donnelly, Driscoll, Dunn, Etnier, Farnum, Gerry, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Heesch, Hichborn, Jones, K.; Jones, S.; Joseph, Joy, Joyce, Joyner, Kerr, Kil Kelly, Kneeland, Lane, Layton, Lemaire, Lemont, Libby JL; Lindahl, Look, Lovett, Lumbra, Luther, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, McElroy, Meres, Morrison, Murphy, Nass, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Perkins, Pinkham, Plowman, Poulin, Pouliot, Reed, G.; Reed, W.; Rice, Richardson, Ricker, Rosebush, Rotondi, Samson, Savage, Saxl, M.; Shiah, Simoneau, Spear, Stedman, Stone, Strout, Taylor, Tripp, Tufts, Tuttle, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor.

ABSENT - Green, Keane, Poirier, Truman, Yackobitz, The Speaker.

Yes, 43; No, 102; Absent, 6; Excused, 0.

43 having voted in the affirmative and 102 voted in the negative, with 6 being absent, the Majority "Ought Not to Pass" Report was not accepted.

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

The Bill was read once. Committee Amendment (H-356) was read by the Clerk and adopted. The Resolve was assigned for second reading Wednesday, June 7, 1995.

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

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-354) on Bill "An Act to Restrict Private Political Campaign Contributions in State Elections" (H.P. 923) (L.D. 1299) which was tabled by Representative CARLETON of Wells pending the motion of Representative NADEAU to accept the Majority "Ought Not to Pass" Report.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: This bill is the result of literally hundreds of hours of work, not so much in the Maine Legislature, but by groups outside the legislature and outside of state. Customarily when one stands up on a bill, one indicates that it is a minor or technical adjustment and hopefully nobody will notice. I cannot say that with this bill. This bill is the spill that could dynamite our present system of politics and money in the State of Maine. This bill would dramatically change the way in which politics is done and how campaign money is handled, raised and spent and would change forever the political landscape in Maine.

The experts, because the constitutional issues, have crafted a bill that would create a two track system with a clear intention of moving to the public finance campaign. Maine is uniquely situated in the country, because we have relatively few state campaigns. We only elect one statewide officer, the Governor, by general election. The legislature is elected from small districts throughout the state. We more than any other state have the capacity to dramatically change our system of campaign politics and money in this state and this is the bill that can do it. It has some costs and some problems, which I will get to shortly, but if you do not like the system of politics and money that is a way of life in the American political system. This is the dynamite that you can place under that system.

It is a system of public finance of campaigns. The problem with money and reforms in this system is that they are all beatable, as long as there is private money in campaigns, anybody's experience can handle use of that money in ways that will frustrate the reformers. You can move limits up and down. You can effect PACs this way or that way. You can bring in a little bit of public money, but as long as the private money remains, techniques such as bundling will make it into a, you push in here and it comes out there.

The system before you, which is essentially the same thing that was before the legislature two years ago, dynamites that system. It does it by creating a democracy fund and I will get to the real hard crux of the matter right now. It does not take money from the general fund. It is viewed as a citizenship fee that all tax payers who file would pay and it is a \$4 per taxpayer fee, collected every year. That way Mainers can buy the government back and get private money out. Four dollars per year per filer would raise 17 million dollars over a four year cycle of one Gubernatorial election and two legislative elections that in a ratcheted down system very carefully crafted to deal with unopposed candidates, provide a filter so it is difficult to become a frivolous candidate, provide staggered injections of cash of a low level.

That system can all be paid for with its administration and the accompanying Ethics Commission with \$4 a year. When I discussed this bill out there in the public, some folks quite often people who are familiar with the present system will end up discussing with me the technical issues or arguably the constitutional issues. They got into unopposed candidates and then they start to raise questions. One gets the feeling with some in our society that they are comfortable with the present system. I usually have the suspicion that they are looking at it through the eyes of their own particular interest

group and they may know that they are well represented in Augusta on matters that effect them, their voice with the traditional system will work just fine.

When I talk to other people and I say, lets get private money out of campaigns, we can do it constitutionally, those that like the idea understand and go directly to the point. They know that money ultimately and indirectly brings influence, access, organization and focus in the halls of these bodies. The money that comes, the milk of the politics is campaign finance. The two track system in this bill allows privately funded candidates to continue, but with enormous disincentives, namely the democracy fund, using rapid filings by the privately funded candidate will provide matching money to the competing candidate, up to three times the limit.

There is a tremendous disincentive and with it, ultimately will go the culture of disapproval of using private money in campaigns, thus people will opt for, because the bill will encourage it, in fact, make it almost inevitable. Will choose for the Maine democracy fund and that will provide an appropriate amount of money, so that a candidate, for instance, state representative who has a contested primary and a contested general will have \$8,500, quite a bit of money, perfectly enough for two contested races in one election. Of course, less is they are unopposed in one of those pieces. Ultimately then because they are all on the same playing field and you realize all playing fields have inevitable biases built into them, the goal will be to adjust it in years to come by future legislatures so that you will slowly ratchet down the expenditure.

We thought we could fund this plan with \$3 a year per taxpayer, but we wanted to make sure there was ample money so there was no touching of the general fund and no possible administrative costs that would come to the State of Maine. We made it \$4 a year per taxpayer filer. The issue simply is to say to Mainers, \$4 a year per taxpayer filer, yet private money out of campaigns and you have a system of public finance reduced and as equal as possible. You have difficult filters to eliminate frivolous candidates and you begin to rely on the public expression of media through debates and that sort of thing on the Gubernatorial level and more through the so called free media and more and more you rely on shoe leather and personal contact and reputation, at the personal level that it exists in Maine for state rep races.

We could deliver a revolutionary blow on money and politics in Maine. I have to tell you there is a group out there that is considering bringing this forward as a referendum, essentially this bill. They have one basic disagreement in that they deal with the general fund in their proposal or disagree with that. I think it should be a citizenship fee of \$4 a head, but other than that it is essentially the same bill. I believe that will proceed, but I want to say that if you feel this is not a decision that, we, as politicians sitting in this body should make, that this kind of citizenship decision and dramatic change should be left to the people and not the legislators, I, on the off chance that it gets a majority vote here am prepared to put it in a referendum format with the concurrence and involvement of those who would choose to support it. I don't care.

I think Mainers don't like the system of politics and money. I think Mainers will say \$4 a year as a

guy in Moody's Diner this past weekend said to me, you bet I understand what money means, and you bet that is reasonable for me to get it out. I think Mainers will adopt it in that kind of format. Perhaps there is a fear of appearing self serving by doing it. Although the constraints that this bill will bring on us are important. The bill addresses a series of technical issues in terms of communication and rapid fire reports of those who remain privately funded. My belief is that as with the presidential system only one candidate has seen fit to run privately funded for the President of the United States since that system has been put into place.

I believe that no seriously politically active person would think of using private money, were this system of democracy and citizenship fund in place. I believe people would see it as the right thing to do. Frankly in some years to come, I think people will see the notion of private money in campaigns something again to whatever it used to be when money was handed to politicians for their own benefit, which, of course, is long gone. The bill before you, I would be happy to deal with more technical issues, but I think that is not appropriate. I am trying to speak as briefly as possible.

Make no mistake about it, this bill would change politics in Maine, I think, forever. I think it would get private money out of politics. I think it would dramatically effect the way that we engage in communication with the public. I think it would remove significant perceived and perhaps some actual taints on the system, because of the inevitable relationship in our system now of politics and money. I think \$4 a year per taxpayer filer is a reasonable system to get that kind of equity and we have a chance to do it in Maine. I am also extremely open to letting the voters of Maine decide in a referendum if it should get past the first vote.

I recognize the problems with this, but I put it before you as a result of the work of a lot of people. Let me just add for those who worry about Buckley vs. Valeo, which is a 1976 Supreme Court decision, this passes muster, because it has a double system in place, the private can continue with pressure against it to remove it, maybe by cultural rather than anything else. Several lawyers on the national scene and have looked at it and there is no question that we are on good grounds constitutionally. It is the only way to go. Frankly there is no other way to do it given the restraints of that court decision. A lot of hours have been spent on that. If you happen to answer questions, I am not sure if the floor is interested in those, but I present it to you on behalf of this group of people.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: I think the first thing you need to know is something I have learned in my committee position and something the committee members have been sharing for quite a long time on campaign reform in general.

There are three very important matters when you are looking at this topic. The first is this little document called the Constitution. It may be that some of these points can be and have been worked out to some degree. I strongly suggest that this would have constitutional problems. The second thing you need to look at is if you are going to have public campaign financing then I guess the follow-up

question is, where does the money come from? In case you haven't heard by now, we are broke. It is not going to happen. That is a totally unrealistic thought.

The third point you need to address is what is politically viable. What can pass? I think specifically on the third point, look at this Maine Democracy Fund, will receive money from the following sources. A \$4 Maine taxpayer filing fee and that is every taxpayer in this state. Is that going to pass? I don't think so. Do Maine people want it? I am not sure, but they have sent us some pretty strong messages. I don't think they are real enthused about that concept. Every taxpayer plus increased lobbyist registration fees plus candidate filing fees, I happen to be a Democrat with a capital D, however, I will differentiate here, this is the most undemocratic small d, very, very specific here.

As if there aren't enough prohibitions already, we are now throwing another hurdle at Presidential candidates. We are saying, hey, Guy Nadeau, if you want to run you have to pay a filing fee. What if Guy Nadeau doesn't have that filing fee? Tough bananas. If you can't pay the fee, you can't play. I am not sure about that concept. If I read a little bit about the statement of fact, one of the first things it does is establishes a new commission, instead of your regular Governmental Ethics and Election Practices, this would propose replacing the Maine Elections and Ethics Commission, an independent six member commission appointed by the Chief Justice of the Supreme Judicial Court. I am not sure, but I don't think we want to get the justices involved in this case. The Governor and the Chancellor of the University of Maine System, what does the Chancellor of the University of Maine System have to do with this? I don't know.

We are talking about political stuff. Running for office is political. Whether you ran against government or not, you are here. You are government right now. Now we are going to delegate our responsibilities to the court and the University of Maine System. I don't think it is very responsible for us to be dodging this thing in the hopes that we are hitting a feel good nerve and we have just kind of shifted to folks that aren't considered political, you don't think that is political. Regarding the University of Maine System, try asking a few questions about how you get to be a trustee. You want to hear about judges and then I am sure a lot of you have heard the same comment. A judge is nothing more than a lawyer who happens to know the Governor and that is what that is all about.

This fact sheet here, this yellow document, talks about people in Maine wanting their government back. Somehow implying that they don't have it right now. I kind of disagree with the premise. If Maine people really want to make an impact and look around you, you probably don't recognize to many people in your circle right now. Maine people took their government back last November and if you haven't quite figured that out yet, you have a rude awakening coming. Maine people want their government back, I am not sure. I kind of got a feeling they have got it and if they haven't they will get it, but they don't need this document to send that message.

I want to reiterate, we are talking a \$4 fee on every taxpayer in the State of Maine. I think at least 95 percent of us in this body campaigned on not raising taxes. I remember a gentlemen a couple of

years ago, Steve Zirnkilton, great speaker and he had a nice voice too. He is making big bucks now with his vocal talents. Steve used to say fairly often that if it looks like a duck and it quacks like a duck, you could be pretty sure it is probably a duck. If it looks like a fee and it looks like a tax, it is probably a tax and that is exactly what you have here. You can call it a fee, a registration, a citizen fee or whatever you want, but it is a tax.

There is not denying that and if you want to sit here and vote for a tax increase great, I guess I will lose. I think that I am perceiving that this bill does a lot of great things. A lot of real dedicated effort that went behind this coalition that the coalition that the Representative from Portland talked about. There are a lot of great ideas and a lot of good minds to it. I kind of have the feeling that what they didn't do is have a reality check. You have to figure out what the pulse of the Maine people is. I don't think this document is it. I strongly urge you to accept the Majority "Ought Not to Pass" Report.

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

Representative LEMONT: Mr. Speaker, Ladies and Gentlemen of the House: I rise today because it is unusual when I have the distinction of rising with my good House Chair and debate the same side of an issue. I agree with the good Representative from Portland we do need election reform, but, I too, would like to speak of some of the details of this bill. As the good House Chair told you several times this is a tax, a fee and it is \$4 to every person filing a Maine income tax in the State of Maine. I represent several people that aren't registered to vote, have no interest in being registered to vote and certainly would not appreciate participating in this process.

I also have a real problem with a candidate filing fee. I thought the intent of any kind of campaign finance reform was to open up the process and allow more people to participate in the process and to me this is exclusionary. You have heard earlier it creates a new commission called the Maine Democracy Fund. This has a huge loophole in it. This is not mandated that every candidate participate in the process. It also has an accounting system that has debts, credits and various reports required at many different times during the campaign season. It also has a very, very involved process of filing system of reporting your income and your expenditures. It also creates four new positions with the State of Maine. I hope you will join me in accepting the 12 to 1 Majority "Ought Not to Pass" Report. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative CAMERON: Can somebody tell me whether or not there is any restriction on the amount of money an individual puts in of their own. In other words, if I want to put in \$10,000, is there a restriction on my personal contribution to my personal campaign?

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

Chair recognizes the Representative from Portland, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: In responding to the question, because there is a two track system here, those who choose to remain privately funded would do it, as now, with the additional filing requirements and additional filters that have been referred to necessary to make the rest of the system work. The public funded could not spend their own money or anybody else's money on behalf of their campaign. The role of the Ethics Commission which is an appointment process that laid as the Chair of the Committee made clear, to creating as close as possible to a nonpartisan body is to define the rules surrounding in kind contributions and those are to the extend possible characterized in the bill with guidance for that rulemaking left over to the Ethics Commission. Of course, sometimes there can be a fine line there between in kind expenditures or using your own stakes or something like that. All that capacity has been addressed in the bill and where the definitions are not possible, they have been given to the Ethics Commission. Let me also say while I am on my feet that the other issues of filing fees and I am told, I have never been able to verify this, that we are only in one of about a half dozen states in the country that don't have filing fees, particularly on the Gubernatorial level are designed to be part of the filters to stop frivolous candidates from entering into the system, taking public money and variously not seriously engaged in electoral practice. You think about it for a bit and you recognize there has to be impediments to the abuse of the system and that is why the bill gets pretty complicated. The reality will be that the ethics committee will define some of the issues that have been eluded to that the candidate will choose to be privately funded, in which case there is a significant disincentives or be publicly funded in which case they accept the rules and guidelines, one of which is no private money, their own or anybody else in the campaign. Mr. Speaker, I do request the yeas and nays.

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

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

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

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

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House: I signed the Minority "Ought to Pass" Report because I felt this issue should come before this House. I am a strong believer in campaign finance reform, but I must tell you that I am opposed to public financing of campaigns. I will tell you that the legal and Veterans Affairs Committee is working on a bill that will provide voluntary campaign finance reform, it beat constitutional muster. It is a program that has been in the states of Vermont and New Hampshire and from all indications it works well. As a matter of fact,

in New Hampshire I am told that even though it is voluntary it has 98 percent compliance. I would urge you all not to pass this and to wait in great anticipation for the report that will come next week from the Committee on Legal and Veterans Affairs. Thank you.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: I rise specifically to address the question of the gentlemen from Rumford. I don't think it was adequately answered. The question was basically can we restrict private money? The answer is absolutely no. The Supreme Court has ruled that due to the Constitution specifically the First Amendment, if I am stupid enough to throw in \$100,000 in my own campaign, there isn't a blessed thing anyone of us can do about that. Until somebody persuades the Supreme Court to reconsider that issue, that does it. If he has two tracks, three tracks or four tracks, a certain individual wants to finance his entire campaign for 1 million bucks that sort of thing is happening in the not to distant past. If somebody wants to finance their own campaign, let them. That is the answer to that question. Thank you Mr. Speaker.

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

Representative CARLETON: Mr. Speaker, Men and Women of the House: I am speaking for myself at this point. As some of you know that the Representative from Portland and I cosponsored this bill last year. I think I would like to just set forth some of the circumstances, I think, which give rise to the need for comprehensive campaign finance reform. I having gone through the process and meeting with many people in the course of development of this bill. I have come to the conclusion myself that partial campaign finance reform is like pushing in a balloon, you push in on one place and it balloons out in the other.

The problem as I see it is the increasing cost of running a winning campaign. We all go around to our friends when we decide that we are going to run for office. We get some money from our friends. We may get some money from those who know our general outlook on government and perhaps they contribute to our campaign because they are with us philosophically. Increasingly in bodies other than the House where the cost of campaigns are relatively low. Increasingly there is another group of people who contribute to campaigns. They are people who do not necessarily know the candidate. They are people who do not necessarily agree philosophically with the candidate on a broad general basis. They are people, corporations or unions who have an interest in seeing that issues that come before this body go a certain way. They are people who, in short, look upon a campaign contribution as an investment.

You may think and we all know that we are individuals here and we can all make up our own mind about things and we can all say that we are not effected by all of this. I think in this House it is true. Nevertheless those people in that class who contribute believe that they are making an investment that will pay off, to put it very crassly. When the public sees the level of contributions, I am afraid that their reaction is that these investments do pay off and it terribly effects the perception that the public has on you, me and everybody who is in public service.

To the extent that the investment does pay off, I think it does effect and distort public policy. To the effect that the temptation is out there, because of the possibility of contributions from one interest group or another we, who are in public service sometimes face a dilemma of turning away money that may come from particular interest groups or voting what we actually believe. That temptation is always out there. Nobody can ever point to any particular vote or any particular stand that we as public servants make and say well that is caused by the fact that somebody is a big supporter of his and they have a particular interest.

I think the real problem is the public cynicism about this whole system. This bill is designed to deal with that and I think it is appropriate that the issue be raised so that we can think about this some more. Incidentally, I disagree with the good Representative who argues that this bill may be unconstitutional. It is clearly constitutional, because it does not restrict the right of someone who wants to spend as much money as they wish on their campaign. That is what the court decisions which were proved unconstitutional on some of the campaign finance reforms did clearly, anybody who, if this bill were to pass anybody who runs for office has the option of taking the choice of complete private financing and to do exactly as they do now. Having that choice, it is clearly constitutional for this bill. Public financing is only an option.

I hope you will think about the issues that have been presented in this discussion. I hope that this will continue to be something that is at the top of our agenda. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative PERKINS: I understand that if one does want to finance privately there is no limit, but if I read this fact sheet correctly, if I spend 1 million dollars, somehow in this new program there will be available 1 million dollars of public money to match that for my opponent. Could somebody please explain how that is going to come out of that \$4 per taxpayer? Thank you.

The SPEAKER: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Richardson.

Representative RICHARDSON: Thank you Mr. Speaker. In response to it, let me try to be as clear about this as I can. I apparently have not expressed it. There are two tracks. The candidate makes the decision. If they choose the privately funded track, then with the exception of more frequent filings and some more essentially supervision of what they are doing, they proceed to run their campaign. Those that choose the public funded track, in effect, sign a contract and in that contract they receive according to a very carefully prescribed formula money from the democracy fund, depending on whether they have opponent and certain timing things. They receive public funding and in return for that, supported by Maine law, except restrictions.

One of the critical restrictions is they cannot spend private additional campaign money. This is not a match program. Match programs in my view run a foul because they don't get the private money out, they just throw a little public money into the pot. That choice for a candidate with some disincentives matching funds that come to the publicly funded opponent is what gives this its constitutionality without question. It avoids any commingling of public and privately funded monies. The two track system is frankly the only way to go. The publicly funded one is something of a difficult hoop in terms of filing requirements, but it is necessary to ensure the integrity of it and supported by the Ethics Commission. I hope I have been clear on the explanation. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative TUTTLE: Thank you Mr. Speaker. Reading the bill on page 5 of the original bill in section 534, 5A, I noticed that a candidate for State Senate would have to obtain at least 800 and not more than 1,200 voter signatures and a candidate for State Representative must obtain at least 400 and not more than 600 voters. I guess my question would be is that still in the bill and if it is, the reason for the high numbers and had there been concerns of those who sponsored the legislation on the time element and collecting them, as well as a possible verification problem?

The SPEAKER: The Representative from Sanford, Representative Tuttle has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Richardson.

Representative RICHARDSON: Thank you Mr. Speaker. In response to the question, yes those high numbers are still there in the bill. The purpose of those high numbers is to make sure that the perspective candidates does the shoe leather part of it to get into the process. They have to make a significant effort to get petitions on signatures. I can't quite remember what it is to run for City Council in Portland, at large, but it is several hundred signatures. It forces people to stand in front of the Shop'N Save and work at that. This is one of the ways that one insures that people say don't take a frivolous attitude toward it. There is no other way really to do it.

A filing fee is consistent with over 40 other states that do it. I recognize that those hoops are difficult, but I am still stunned when I realize that I can collect all signatures for running for my office on my block in the City of Portland and that clearly provides no serious impediment to candidate for office. To avoid the problem of frivolous candidates in a manner that I should say is consistent with other states, I am familiar with one other state that has petition gathering process of several thousand to run for State Senate and that is the State of Ohio.

It is a difficult process that needs organization. It needs friends. It need connections. It needs ability to reach out to rotaries, churches or whatever community organizations and to develop a grass roots

organization for filling those petitions that are circulated by folks other than the candidate. That filter is needed otherwise candidates without a broad base support are going to enter into the democracy fund and demand their chunk of money. There must be some way of indicating, not through money, but by shoe leather that there is some effort here on behalf of the candidates to reach a significant portion of the community and the primary way of doing that is through the petition process.

Frankly I feel a lot of other states are in this general league. Maine is unusual in the ease which it gained through the petition process to gain access to ballot and it is definitely in a minority in states in having no filing fee. I realize that those are uncomfortable restrictions on political people. I think they are reasonable and if you think about it, it is the only way to do it without making a mockery of the system and having it bankrupted by a multiplicity of candidates who don't express the bread to their community. Thank you.

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

Representative CLOUTIER: Mr. Speaker, Men and Women of the House: It is my understanding that if you get less than 400 votes you are a frivolous candidate. I would really like to know what a frivolous candidate is. I am upset by this kind of terminology being used in this House. If I get 25 signatures, are those frivolous signatures. Any person walking through the halls of Augusta, are they frivolous people. I think we have carried this thing on just a little bit too far. We are talking about a two track system that would allow choice between public and private financing. A choice between public financing and private financing simply means, do you want to win or do you want to lose. Lets be very realistic and lets not call the constituency in anybody that wants to run for public office in the future, today or the past frivolous candidates. Thank you.

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

Representative CARLETON: Thank you Mr. Speaker. Perhaps I can shed a little bit of more light on the discussion that has taken place with the last couple of speakers. The increased requirement for petitions for signatures applies to those candidates who wish to run and get public financing. The idea being that a person who wants public financing for their campaign, perhaps has to show a little bit more commitment and a little bit more support before they get those government dollars. Somebody will correct me when I am wrong, but the number of signatures required should a person choose to go to private financing route is much less. In fact, it may be unchanged. Thank you.

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

Representative PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: My constituents when I was campaigning a lot of them cried for some sort of campaign reform and I know it is difficult, but I find this a interesting bill. Mr. Speaker if I could just kind of repose that question that I had before would that be possible?

The SPEAKER: The Representative may proceed.

Representative PERKINS: On the fact sheet that everyone has, on the back page about the fourth bullet

down in the middle, the way I read it it says that if you do decide to fund your campaign privately, you are allowed to do that. On the last line it says any amount that you go over your opponent will be matched by the fund. That was my question and I am afraid I didn't quite get an answer. Where is that money coming from if it goes over that 2.9 million that we are talking about in the fund? Thank you.

The SPEAKER: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Richardson.

Representative RICHARDSON: To keep a level of parity between the public and privately funded candidates it is necessary as the privately funded on report and then 17 days out do their estimate for the rest of the campaign. There be some mechanism that the publicly funded one can match it. You can't have the privately funded zoom ahead and bury the publicly funded. The fund has resources in it to match a few candidates who will be in the situation of privately funded starting to spend more money up to two or three times the limit. They can't go endlessly. At three times the limit, the view is that the publicly funded will be able to completely make clear to the public that the privately funded candidate is trying to buy the election.

That is a necessary safeguard and I appreciate the Representative's problems with some of these safeguards. They make me uncomfortable too, but they are necessary to examine the technical difficulties of making this system work. There is a matching that comes in those two tracks, the privately funded starts to spend more money and it is matched in the publicly funded from the Democracy Fund up to three times and at that point then the publicly funded presumably has adequate money to make perfectly clear in these perspective districts that with those resources in the area they have to cover that the privately funded one is trying to buy the election.

I appreciate the frustration particularly of the Representative from South Portland on this issue that I raised and I shouldn't have used the word frivolous. Of course, no citizen is frivolous. Access to the ballot becomes a question for those choosing the publicly financed campaign. The only purpose is to make sure the candidacy is, after all, headed for a majority. Heading for 50 percent plus one or a plurality of voters in a contested election. That says nothing about the vote that would occur if there is low turnout and there is a few people voting then, of course, the one with the most votes wins. It is simply a necessary filter to indicate that people have to go through that the gain access to it.

Of course, I don't mean to pass any kind of judgment on anybody that would seek public office in Maine. We just ask that if you are going to have access to the public funding that you demonstrate some basic support in your community and the way to do that is to get people to sign your petition, not necessarily that they are going to vote for you, but that you ought to be on the ballot as a candidate. I appreciate your frustration with some of these technical issues. All I can say is that we have struggled long and hard trying to figure out a way to make the system work and have a subsequent legislature will pass different judgments about all of the work, if this were law, would pass different

judgments. Of course, this is a law not a Constitutional Amendment so it will be modified and changed as experience dictates.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: First of all, let me say that my comments are strictly my own and may or may not make my contributors happy. I think this bill is an urban vs. an rural bill. I will tell you why I think that. The good Representative from Portland made the comment that he could get 25 signatures in his block. Well my block is pretty large. I have to travel a long ways to get 25 signatures. I just happen to live in a district where the party I belong to is the minority. I have to travel a long ways. If you live in a district where there are 8,000 people, as we all represent, in a square mile, you don't have to buy many signs. You don't have to go very far to meet people. If you live in a district that covers 300 square miles, it takes a lot of signs and it costs money. They cost dearly and it costs money to drive around to put them up. We do it a lot of times after dark or on Sundays which are obviously the times when people don't want you at their doors. We have to cover the same ground where we have already been to campaign during the day.

It also concerns me, I know I asked the question about making your own personal contributions to your campaign. This makes it a rich vs. a poor bill. If you can afford to put \$8,000, \$10,000 or \$15,000 of your own personal money and you don't care into that campaign, then chances are you're going to win. I call that buying the election. On the issue of influence, I bet there is not one percent of you folks in this room that sit here and think how are the people who contributed to my campaign going to want me to vote on this issue. My contention is that most of you people think about how will this effect the people in my district. If I had to stand here and give you a list of the people that contributed to my campaign, I can't do it. Therefore, if I don't remember who they all are, how can I use them as a basis for my decision making process. It seems to me that if we pass this that we buy into the public perception that we are all for sale and we are not. I don't care which side of the isle we are on. I believe everybody that is here wants to do a good job and I believe everybody that is here sincerely believes that what they are doing is the right thing for their district. That doesn't mean I agree with them, but that is besides the point.

If we pass this kind of legislation, we are buying into the perception that the public has, due to the media, quite frankly, of how we make our decisions. I think very few of us make our decisions based on who contributed to our campaign. Do we talk to lobbyists? Absolutely. Lobbyists serve a purpose in this process. They are there for information and if you recognize that the information is biased and you get both sides, I don't see anything wrong with that. It also seems to me that when we talk about campaign finance reform it is another one of those things we think the public wants to hear us talk about, but when we talk about it some of the proposals seem to close access to the system rather than open access to the system. I think this does. Two hundred dollars isn't going to break anyone of us, but it is another piece of the pie. If we do anything, we should be opening up the process and I

am sure everyone of you in this room at one time or another has been involved in your party trying to find people to campaign in a district. We are out there begging people to campaign now. It escapes me why we would want to do anything to make it anymore difficult for the average person on the street to get involved in the process. The more the average person on the street gets involved in the process, the less of a perception there is going to be of what happens down here.

We all know that we go back home to our districts and people talk to us most times the perception of what happened here is not what happened here. That is not a reflection on our constituents, that is just because we are here and sometimes we have more information provided to us then they have. I think we need to be doing things to lessen that perception of what goes on here, not to enhance it. I think this bill enhances that perception. Thank you.

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

ROLL CALL NO. 135

YEA - Adams, Ahearne, Aikman, Ault, Bailey, Barth, Benedikt, Berry, Bigl, Birney, Bouffard, Buck, Cameron, Campbell, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Desmond, Dexter, DiPietro, Donnelly, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gould, Greenlaw, Guerrette, Hartnett, Hatch, Heeschen, Heino, Jacques, Johnson, Jones, S.; Joseph, Joy, Joyce, Joyner, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, Lafountain, Lane, Layton, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Luther, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Morrison, Murphy, Nadeau, Nass, Nickerson, O'Gara, Ott, Paul, Peavey, Pendleton, Pinkham, Plowman, Poulin, Pouliot, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rotondi, Samson, Savage, Simoneau, Sirois, Spear, Stedman, Stevens, Stone, Strout, Taylor, Thompson, Treat, Tripp, True, Tufts, Tuttle, Tyler, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winsor.

NAY - Brennan, Bunker, Carleton, Chartrand, Chase, Davidson, Gerry, Gooley, Jones, K.; Lemaire, Martin, Mitchell JE; Perkins, Povich, Richardson, Rosebush, Rowe, Saxl, J.; Saxl, M.; Shiah, Townsend, Volenik, Watson, Winglass.

ABSENT - Green, Hichborn, Keane, O'Neal, Poirier, Truman, Winn, Yackobitz, The Speaker.

Yes, 118; No, 24; Absent, 9; Excused, 0.

118 having voted in the affirmative and 24 voted in the negative, with 9 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

BILL HELD

An Act to Change the Commissions Payable to the State from Off-track Betting (EMERGENCY) (S.P. 240) (L.D. 637) (S. "A" S-156 to C. "A" S-95)

- In House, Failed of Passage to be Enacted.

HELD at the Request of Representative NADEAU of Saco.

On motion of Representative NADEAU of Saco the House reconsidered its action whereby the Bill failed of passage to be enacted.

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

BILL RECALLED FROM GOVERNOR

(Pursuant to Joint Order - House Paper 1108)

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

- In House, Passed to be Enacted on May 24, 1995.

- In Senate, Passed to be Enacted on May 24, 1995.

On motion of Representative POULIN of Oakland, under suspension of the rules, the House reconsidered its action whereby L.D. 484 was passed to be enacted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 484 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-210) was adopted.

The same Representative presented House Amendment "A" (H-379) to Committee Amendment "A" (H-210) which was read by the Clerk and adopted.

Committee Amendment "A" (H-210) as amended by House Amendment "A" (H-379) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-210) as amended by House Amendment "A" (H-379) thereto in non-concurrence and sent up for concurrence.

BILL RECALLED FROM LEGISLATIVE FILES

(Pursuant to Joint Order - House Paper 1115)

Bill "An Act to Amend the Kennebec Water District Charter by Allowing the Town of Vassalboro and the Town of Benton to have a Permanent Member on the Board of Trustees" (H.P. 461) (L.D. 627)

On motion of Representative KONTOS of Windham, the Bill was substituted for the Report.

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

Representative Kontos of Windham presented House Amendment "A" (H-373) which was read by the Clerk.

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

Representative KONTOS: Mr. Speaker, Men and Women of the House: You might recall last week we recalled this bill which the committee had voted "Ought Not to Pass" because we had a second bill dealing with the Kennebec Water District and didn't, at the time we took action on this bill, realize we needed this one as well. The charter change offered in this amendment is necessary before we take additional action that is being asked in a second bill. I urge you to support this request. Thank you very much.

House Amendment "A" (H-373) was adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-373) in non-concurrence and sent up for concurrence.

UNFINISHED BUSINESS

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

Resolve, to Strengthen Fish Hatchery Capacity within the State by Establishing a Partnership between Public and Private Organizations (S.P. 365) (L.D. 991) (H. "A" H-298 to C. "A" S-116)
TABLED - May 31, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.
PENDING - Final Passage.

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

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-116) as amended by House Amendment "A" (H-298) was adopted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby House Amendment "A" (H-298) to Committee Amendment "A" (S-116) was adopted.

On further motion of the same Representative, House Amendment "A" (H-298) was indefinitely postponed.

The same Representative presented House Amendment "B" (H-367) to Committee Amendment "A" (S-116) which was read by the Clerk and adopted.

Committee Amendment "A" (S-116) as amended by House Amendment "B" (H-367) thereto was adopted.

The Resolve was passed to be engrossed as amended by Committee Amendment "A" (S-116) as amended by House Amendment "B" (H-367) thereto in non-concurrence and sent up for concurrence.

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

HOUSE DIVIDED REPORT - Majority (8) **"Ought Not to Pass"** - Minority (5) **"Ought to Pass"** as amended by Committee Amendment "A" (H-295) - Committee on Labor on Bill "An Act to Encourage Job Creation by Exempting Small Businesses from the Current Workers' Compensation System" (H.P. 664) (L.D. 887)

TABLED - May 31, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Motion of Representative HATCH of Skowhegan to accept the Majority **"Ought Not to Pass"** Report.

On motion of Representative VIGUE of Winslow, the Bill and all accompanying papers were recommitted to the Committee on Banking and Insurance and sent up for concurrence.

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Line-item Veto (CONSTITUTIONAL AMENDMENT) (H.P. 729) (L.D. 1003) which was tabled by Representative JACQUES of Waterville pending further consideration.

-In House failed of final passage June 5, 1995.

-In Senate finally passed in non-concurrence.

Representative KERR of Old Orchard Beach moved that the House Recede and Concur.

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

Representative MITCHELL: Thank you Mr. Speaker. I would ask for a roll call on the motion to Recede and Concur and ask that you vote against this motion so that I could then make a motion to Adhere.

Representative MITCHELL of Vassalboro requested a roll call on the motion to Recede and Concur.

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

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

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

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: From our very first Governor, the Honorable William King to our present Governor, the Honorable Angus King, voters in Maine have elected our Kings to be Governors and our Governors to be Kings.

The authority to control the public purse strings reposes in this body, ladies and gentlemen, and in this body it should and must remain. I urge you to vote against the pending motion of Recede and Concur. Thank you.

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

ROLL CALL NO. 136

YEA - Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Bunker, Cameron, Campbell, Carleton, Chick, Clark, Clukey, Cross, Damren, Davidson, Desmond, Dexter, DiPietro, Donnelly, Dore, Dunn, Farnum, Gamache, Gates, Gerry, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Kerr, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Morrison, Murphy, Nadeau, Nass, Nickerson, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poulin, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, Thompson, Tripp, True, Tufts, Tuttle, Tyler, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor, The Speaker.

NAY - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Chartrand, Chase, Chizmar, Cloutier, Daggett, Driscoll, Etnier, Fisher, Fitzpatrick, Gould, Hatch, Heeschen, Jacques, Johnson, Jones, K.; Joseph, Kilkelly, Kontos, LaFountain, Lemaire, Luther, Meres, Mitchell EH; Mitchell JE; O'Gara, Pouliot, Povich, Richardson, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Townsend, Treat, Volenik, Watson.

ABSENT - Green, Hichborn, Keane, Martin, O'Neal, Poirier, Truman, Yackobitz.

Yes, 96; No, 47; Absent, 8; Excused, 0.

96 having voted in the affirmative and 47 voted in the negative, with 8 being absent, this being a Constitutional Amendment a two-thirds vote of the House necessary, the Resolution was finally passed, signed by the Speaker and sent to the Senate.

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

LEGISLATIVE RECORD - HOUSE, JUNE 6, 1995

On motion of Representative JACQUES of Waterville,
the House adjourned at 12:40 p.m., until 9:00 a.m.,
Wednesday, June 7, 1995.