

# 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  
61st Legislative Day  
Monday, June 19, 1995

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

Prayer by the Reverend Bruce Felt, Augusta Baptist Church.

National Anthem by Shawna Haley, Student at the University of Maine, Orono.

The Journal of Friday, June 16, 1995 was read and approved.

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

**SENATE PAPERS**

The following Communication: (H.C. 223)  
Maine State Senate  
State House Station 3  
Augusta, Maine 04333

June 16, 1995

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

Please be advised that the Senate today Insisted on its former action whereby it Accepted the Majority Ought Not To Pass Report from the Committee on Labor on Bill "An Act to Forbid an Employer from Hiring Replacement Workers during a Strike" (H.P. 236) (L.D. 316).

Sincerely,  
S/May M. Ross  
Secretary of the Senate

Was read and ordered placed on file.

**Divided Report**

Majority Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-269) on Bill "An Act to Implement the Recommendations of the Maine HIV Advisory Committee Concerning HIV Testing" (S.P. 129) (L.D. 321).

Signed:

Senators: PENDEXTER of Cumberland

BENOIT of Franklin

PINGREE of Knox

Representatives: FITZPATRICK of Durham

JOYNER of Hollis

SHIAH of Bowdoinham

ETNIER of Harpswell

MITCHELL of Portland

LOVETT of Scarborough

JONES of Bar Harbor

JOHNSON of South Portland

WINGLASS of Auburn

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (S-270) on same Bill.

Signed:

Representative: MARVIN of Cape Elizabeth

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill

passed to be engrossed as amended by Committee Amendment "A" (S-269)

Was read.

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

**Non-Concurrent Matter**

Bill "An Act Concerning a Moment of Silence in Maine Public Schools" (H.P. 656) (L.D. 879) on which the Minority "Ought to Pass" Report of the Committee on Education and Cultural Affairs was read and accepted and the Bill passed to be engrossed on June 16, 1995.

Came from the Senate with the Majority "Ought Not to Pass" Report of the Committee on Education and Cultural Affairs read and accepted in non-concurrence.

Representative POULIOT of Lewiston moved that the House Adhere.

On further motion of the same Representative tabled pending his motion to Adhere and later today assigned.

**Non-Concurrent Matter**

Bill "An Act to Revise and Add to the Laws Regulating the Practice of Professional Engineering" (S.P. 475) (L.D. 1271) which was passed to be engrossed as amended by House Amendment "A" (H-510) in the House on June 15, 1995.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-281) in non-concurrence.

On motion of Representative ROWE of Portland, the House voted to Insist.

**Non-Concurrent Matter**

Resolve, Establishing the Maine Council on Privatization (EMERGENCY) (S.P. 81) (L.D. 169) on which Report "B" "Ought Not to Pass" of the Committee on State and Local Government was read and accepted in the House on June 15, 1995.

Came from the Senate with that Body having insisted on its former action whereby Report "A" "Ought to Pass" of the Committee on State and Local Government was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-254) in non-concurrence.

Representative DAGGETT of Augusta moved that the House Adhere.

Representative JOY of Crystal moved that the House Recede and Concur.

The Chair ordered a division.

Representative DAGGETT of Augusta 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 Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I would just like to remind you

about the issue that is in front of us. The Maine Council on Privatization is the small version. It is a repetition of the same thing that we have already agree to and that is the Maine Productivity Task Force. The Productivity Task Force is a \$250,000 task force and the Privatization Council is about \$2,900 and has virtually the same task. It is like sending an ocean liner across the Atlantic and a few people decide to ride in a row boat. I would suggest that you oppose the motion to Recede and Concur.

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

#### ROLL CALL NO. 183

YEA - Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Cameron, Campbell, Carleton, Chick, Clukey, Cross, Daggett, Damren, Donnelly, Dunn, Farnum, Gerry, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbr, Marshall, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, True, Tufts, Underwood, Waterhouse, Whitcomb, Winglass, Winsor.

NAY - Adams, Ahearn, Benedikt, Berry, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Davidson, Desmond, DiPietro, Driscoll, Etnier, Fisher, Gamache, Gates, Gould, Green, Hatch, Heesch, Michborn, Jacques, Johnson, Joseph, Keane, Kerr, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Luther, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Poulin, Pouliot, Povich, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Thompson, Townsend, Treat, Tripp, Truman, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, The Speaker.

ABSENT - Dexter, Dore, Fitzpatrick, Jones, K.; Madore, Martin, Paul, Rotondi, Stevens, Winn, Yackobitz.

Yes, 73; No, 67; Absent, 11; Excused, 0.

73 having voted in the affirmative and 67 voted in the negative, with 11 being absent, the motion Recede and Concur prevailed.

#### SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the following members of the Jay Middle School Science Olympiad Team: Ortencia Arellano, Sarah Bryant, Anthony DiSotto, Karen Fournier, Cherie Lanier, Kurt Libby, Tony Marchetti, Jon McDonald, David Nemi, Rebecca Ouellette, Sarah Ouellette, Jeremy Rackliff, Eric Remick, Richelle Shaffer, Ernest Steward and Amy Venskus; and coach Ray Chase, who won the state Science Olympiad championship; (HLS 472) by Representative SAMSON of Jay. (Cosponsor: Senator BENOIT of Franklin)

On objection of Representative SAMSON of Jay was removed from the Special Sentiment Calendar.

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

#### REPORTS OF COMMITTEES

##### Divided Report

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Implement the Recommendations of the Task Force to Study the Safe Mobility of Maine's Aging Population" (H.P. 367) (L.D. 487)

Signed:

Senators:

STEVENS of Androscoggin  
CASSIDY of Washington

Representatives:

RICKER of Lewiston  
HEINO of Boothbay  
BAILEY of Township 27  
STROUT of Corinth  
LINDAHL of Northport  
FARNUM of South Berwick

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-505) on same Bill.

Signed:

Senator:

PARADIS of Aroostook

Representatives:

BOUFFARD of Lewiston  
O'GARA of Westbrook  
DRISCOLL of Calais  
CHARTRAND of Rockland

Was read.

Representative O'GARA of Westbrook moved that the House accept the Minority "Ought to Pass" as amended Report.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: My initial remarks will be mostly coming from a yellow sheet that you had put on your desk a few minutes ago. I would urge you to take a look at it, please.

First of all, I would want to make sure that you understand that the amendment changes L.D. 487 considerably from its presentation to us back in March before the Transportation Committee. The bill promotes alternative transportation, which is one of the major issues that was discussed at the public hearing. One of the concerns that I had, even when I originally signed on as a sponsor was that before I would agree to some of the conditions that were in the bill, alternative transportation had to be a major part of it.

Obviously the automobile, not only is important to you and me in this room, but it is important to all citizens regardless of their age once they have passed the driving age. The bill promotes highway safety whether we like to admit or not. The fact of the matter is that the age group that we are talking about has a very serious accident record. The facts are there. It is not something we are making up. It is a very serious issue that we have to face up to. The bill is not discriminatory. In fact, as it says on the sheet, not one qualified Maine driver will be taken off the road as a result of this bill.

There are two things in the long list and I am only going to talk about two of them. Number one, it will require appropriate medical professionals to report, to the Secretary of State motor vehicle, operators with uncorrected visual impairment which do meet existing standards. We heard at the public hearing and many of you have received communications as we have from optometrists and ophthalmologists and people very, very closely associated with the visual problems of the elderly or of all people, as a matter of fact, over 40 years of age, which you will observe

in the items of this bill. The fact that the reporting is not mandatory is a very major issue to them. Optometrists and ophthalmologists, while they agree that some of these folks should be off the road for their safety and the safety of others, they feel very uncomfortable in reporting such a condition in that it is not mandatory.

The second one on that list requires drivers to pass a vision test with every license renewal after age 40. I am not an expert in the testing of eyes. I suspect most of us in this room are not. Those who are, whether they be optometrists or ophthalmologists say that, in fact, you don't have to wait until 60 or 65 or 70 or 75, but in truth and in fact after age 40 serious conditions begin to occur in everybody's eyes. In varying degrees, some sooner and some later, but it does begin to occur. They strongly recommend that this occur. There are other parts of the legislation, which I probably will be addressing later, but at this point in time, I would finish with those two major items. We have gone over this an awful long time and it is a serious issue. It is an issue that needs to be faced up to.

I would point out to you that the AARP, which, of course, you hear from on a regular basis, which is considered to be one of the strongest and most vocal groups in our state and even in the country, strongly supports L.D. 487. As a matter of fact, they testified in support of L.D. 487 at the public hearing. I am not just talking about their support for this amendment. They supported the entire bill at the public hearing. 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 would urge you to vote no on the pending motion. Quite frankly we do have a lot of elderly drivers on the road. Elderly drivers are not the problem. The 18 and 19 year old drivers are the problem and causing the majority of the serious accidents. I would urge you to keep in mind that we live in a rural state and elderly folks in this state depend upon on their drivers licenses to get the necessities of life. I would urge you to vote no on the pending motion. The laws on the books today are adequate to deal with elderly drivers that shouldn't be on the road and this here just goes way beyond. Thank you.

Representative STROUT of Corinth requested a roll call on the motion to accept the Minority "Ought to Pass" as amended 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 Chair recognizes the Representative from Portland, Representative Rowe.

Representative ROWE: Mr. Speaker, Men and Women of the House: I would encourage you to vote for the pending motion. I just want to quote a couple of statistics. I understand what Representative Bailey said, but I do have some statistics which were included in the report. Maine is second only to South Dakota in the number of fatal accidents per

capita over the age of 70. A national study shows that seniors are three times more likely to die in any given crash than members of other age groups.

In Maine, drivers over the age of 75 have the highest crash rate for mile driven in any age group except teen-agers. Having said that, let me say this bill does not discriminate based on age, that has been taken out of the bill. The bill puts a statutory duty on medical professionals to report to the Secretary of State when the medical professional has reasonable cause to suspect that a motor vehicle operator has an uncorrectable visual impairment. Right now there is no statutory duty. Optometrists and physicians are not reporting, because there is no duty, because the repercussions of that could affect their business. If there is a statutory duty, they will report.

As I understand, I read the testimony that there were optometrists that testified in favor of the bill, because they want to be able to report. I think that is a very important part of the bill. It also requires the Secretary of State to develop and distribute materials to medical professionals to inform them on the reporting requirement for visual impairment and also about the immunity from liability for reporting. There is immunity for both criminal and civil liability for a physician or an optometrist or another health-care provider to report this to the Secretary of State.

The other thing that the amendment does, and it changes it from the original bill, is it requires that once a person reaches the age of 40, the next license renewal there will be a vision test. As you know, now in Maine we changed it last year or the year before, your license is renewed every six years, not every four years. What it says is once you reach the age of 40, the next renewal after that you will take a vision test and every renewal from there on you will have a vision test every six years, that is a change from current law. Current law says that you have a vision test at the time of the first license renewal after attaining 40 and then at every third license renewal after the age of 40 and between the age of 65 and then at every license renewal after the age of 65.

If you want to talk about discriminating based on age, I would suggest that this amendment does less to discriminate based on age than current law. Good vision is a key to safe driving. As much as 90 percent of the sensory input required for driving is gathered through the eyes. A decline in visual acuity accelerates after the age of 40 and it slows reaction. The age of 40 was put in there, I think it was the recommendation from the Secretary of State's Office to put that age in there. I know that people feel this is discriminating against seniors. If you felt that in the original bill, I can see where you would point to some information in the bill, but this amendment has none of that in it.

It also highlights two positions in that if you report someone that has dementia to the Secretary of State, there is immunity for that reporting, too. The original bill made that a mandatory reporting requirement and the amendment leaves that voluntary. I think this is a very good bill. It recognizes the importance of good vision for driving and it provides a mechanism by which the Secretary of State provides information to health-care practitioners about their duties and the immunities that are available under

the law. I would strongly encourage you to vote for the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Chartrand.

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: I would also encourage you to vote with the pending motion. We heard a lot of testimony in committee on this bill. A great majority of older citizens spoke for this bill and would like the assurances that would give all of us on the road about the safety of drivers. The vision testing which might seem to be the most onerous part of the bill only requires testing for every six years after one's first license renewal after the age of 40. If this bill does not pass, we will be in a situation where that vision will only be tested every 12 years. It is a very long time. Many different types of visual impairments can begin or get worse during those 12 years.

I think everyone of us in our district can think of a number of older people who should not be driving, but are driving because there is no type of screening right now that can suggest to them that they either need assistance with their visual impairment before they drive or they shouldn't be driving at all. There are other bills in this chamber that would take care of some of the problems with the younger drivers and it is not really a debate between which driver has caused the most accidents. The question is which bills can we pass that will make driving safer for all of us, no matter which age group they deal with or which type of driver.

In committee the amendments we placed on this bill will assist the medical community in meeting the mandatory reporting. We required the Secretary of State's Office to widely distribute information to professionals about the requirements and about the immunity provisions of Maine law which protect them from civil suits related to a report they would file on an unsafe driver. There will also be very easy to use forms for these professionals to use so it doesn't take a lot of time out of their day to file one of these reports.

Many of the other provisions of the amended bill would assist all of us in Maine to use alternative transportation where it is available. Right now there is a lot of groups around the state using volunteer drivers to bring people to medical appointments or to shopping trips. It is a very disorganized system and one of the other parts of this bill would begin a plan to organize and more centralize dispatching, so to speak, of volunteer drivers. It would also require the Bureau of Insurance to look into provisions to reduce the impact on individual insurance policies, if those operators are using their cars for volunteer drivers.

A great majority of testimony before our committee was for the bill. All of the state departments that worked on this task force spent a lot of time developing these recommendations and support them wholeheartedly. I would ask you to do the same.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: Because the way our system works here with committees handling most of the discussion and public hearings, there are some things that there is no way many of you could possibly have

heard. I would just like to take a few minutes just to go over a couple of quick points that were made at the public hearing. This is from an optometrist who has been practicing since 1973.

Briefly, he says, "I routinely encounter patients who do not meet the visual requirements established by the Motor Vehicle Division. Under current law, I am not required to report these patients to the state. I can only inform the patient of his or her visual limitations. Unless a person is required to take a vision screening test at the Department of Motor Vehicle, he or she may go undetected for several years. In the meantime, that person is operating a motor vehicle on a public road with vision inadequate to operate that vehicle safely. Requiring mandatory reporting of persons who do not meet the current vision standards of visual acuity, visual field of view or other visual hazards will alleviate the problem of those persons continuing to be licensed to drive."

From the Maine Center for the Blind and Visually Impaired, I would assume that everyone would agree in this room that they have a little bit of a handle on the visual problems of people who live in our state. Two things, without a mandatory reporting law at this time, visually impaired and legally blind individuals continue to drive because they still hold a valid drivers license. Too often, these drivers state functional difficulties within their home such as setting stove dials, seeing their face in the mirror, reading print, identifying family members within 20 feet, distinguishing colors, noticing objects to their side, and adjusting to sudden lighting changes.

Furthermore, they may not be able to see a person walking on the side of the road, a child on a bicycle or the color of a traffic light, but they sincerely believe that they can make it five miles to the store and back. Some of the people we work with find it difficult to voluntarily stop driving. Although they may fear for their safety and the safety of others, they do not want to give up that level of independence. They emphasize mandatory reporting is essential. The second point about retesting. We strongly support the relicensing recommendation. Over the last 25 years, statistics have demonstrated that the greatest significant change in visual acuity occurs in adults over the age of 40.

Finally, ladies and gentlemen of the House, referring to one of the points that was made a little while ago, I mentioned about younger drivers and someone also mentioned about rural states. Two final points, legal research, number one, in our case in the State of Maine, it is not unfair or illegal discrimination to test drivers at any age in Maine and that is what we are suggesting, not just one group of citizens, but everybody over 40. It is undeniably true that Maine and other states have many young high risk drivers, but safe drivers are safe in the same way. Unsafe drivers are unsafe in different ways. Younger drivers tend to commit errors of judgment caused by inexperience, speed or drinking and driving.

In spite of their best efforts to drive safely, older drivers are involved in accidents caused by functional impairment. Older drivers are more often than not responsible for those accidents in which they are involved. The most frequent cause is failure to yield the right of way. The task force understands how important automobiles are for mobility and independence in a rural state such as Maine.

I

repeat what has been said already. There is nothing in L.D. 487 or the amendment that is before you that will take a license from the hands of a safe and capable driver of any age. Ladies and gentlemen of the House, I realize it is a delicate subject when you are talking about people who may very well be your fathers and mothers, grandparents, or your next door neighbor.

The fact of the matter is that whether we have a rural state or not, whether we feel uncomfortable with it or not. Is it really our job to allow people to continue to drive when in truth and in fact we know and their optometrists and ophthalmologists know that they really ought not to be on the road. I really sincerely ask you to support the Minority Report. Thank you.

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

## ROLL CALL NO. 184

YEA - Adams, Benedikt, Berry, Bouffard, Brennan, Chartrand, Chase, Davidson, Desmond, Dore, Driscoll, Etnier, Fitzpatrick, Gates, Gerry, Green, Heesch, Jacques, Johnson, Kontos, LaFountain, Libby JL; Mitchell JE; O'Gara, O'Neal, Poulin, Pouliot, Richardson, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Townsend, Treat, Tripp, True, Volenik, Watson.

NAY - Ahearne, Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Bunker, Cameron, Campbell, Carleton, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, DiPietro, Dunn, Farnum, Fisher, Gamache, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Hatch, Heino, Hichborn, Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kerr, Kilkelly, Kneeland, Labrecque, Lane, Layton, Lemaire, Lemke, Lemont, Libby JD; Lindahl, Look, Lovett, Lumbra, Luther, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Morrison, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Povich, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rosebush, Rotondi, Savage, Simoneau, Spear, Stedman, Stevens, Stone, Strout, Taylor, Thompson, Truman, Tufts, Tuttle, Tyler, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winn, Winsor.

ABSENT - Dexter, Donnelly, Jones, K.; Martin, Nadeau, Paul, Winglass, Yackobitz, The Speaker.

Yes, 40; No, 102; Absent, 9; Excused, 0.

40 having voted in the affirmative and 102 voted in the negative, with 9 being absent, the Minority "Ought to Pass" as amended Report was not accepted.

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

**Divided Report**

Majority Report of the Committee on Business and Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (H-498) on Bill "An Act Regarding Unredeemed Deposits on Beverage Containers" (H.P. 506) (L.D. 687)

Signed:

Senators: HARRIMAN of Cumberland  
CIANCHETTE of Somerset  
GOLDTHWAIT of Hancock

Representatives: BIRNEY of Paris  
CAMERON of Rumford  
DAVIDSON of Brunswick

LIBBY of Kennebunk  
REED of Dexter  
SIROIS of Caribou

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

Signed:

Representatives: ROWE of Portland  
BRENNAN of Portland  
KONTOS of Windham  
POVICH of Ellsworth

Was read.

Representative ROWE of Portland moved that the House accept the Minority "Ought Not to Pass" Report.

On further motion of the same Representative, tabled pending his motion to accept the Minority "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:

(S.P. 433) (L.D. 1201) Bill "An Act to Provide for Public Health Standards in Public Schools Similar to Standards Required in Private Industry" Committee on Education and Cultural Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-272)

(S.P. 519) (L.D. 1401) Bill "An Act Relating to the Establishment of a Continuum of Quality and Affordable Long-term Care and Service Alternatives" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-271)

(H.P. 322) (L.D. 443) Bill "An Act to Place a Spending Cap on State Senate and House Campaigns" Committee on Legal and Veterans Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-520)

(H.P. 890) (L.D. 1243) Bill "An Act to Reestablish the Great Pond Task Force" Committee on Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-514)

(H.P. 959) (L.D. 1348) Bill "An Act to Reform the Process of Periodic Review of Programs and Agencies" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-516)

(H.P. 1021) (L.D. 1436) Resolve, to Preserve the Dairy Industry in the State (EMERGENCY) Committee on Agriculture, Conservation and Forestry reporting "Ought to Pass" as amended by Committee Amendment "A" (H-518)

(H.P. 1104) (L.D. 1551) Bill "An Act to Protect Traditional Uses in the North Woods" Committee on Agriculture, Conservation and Forestry reporting "Ought to Pass" as amended by Committee Amendment "A" (H-519)

There being no objections, the above items were ordered to appear on the Consent Calendar of later in today's session under the listing of Second Day.

**CONSENT CALENDAR****Second Day**

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

(H.P. 489) (L.D. 670) Bill "An Act to Extend the Medical Liability Demonstration Project Deadline by 3 Years" (C. "A" H-502)

(H.P. 1053) (L.D. 1482) Resolve, Directing the Department of Education to Develop a Statewide Plan for a Skills Development Program for Teachers (C. "A" H-499)

(H.P. 1078) (L.D. 1520) Bill "An Act to Amend the Earnings Limitations under the Disability Plan" (EMERGENCY) (C. "A" H-495)

(H.P. 1087) (L.D. 1532) Bill "An Act Requiring Doctors of Naturopathic Medicine to Be Licensed by the Naturopathic Board of Examiners and Regulating Naturopathic Health Care Practice" (C. "A" H-508)

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

(H.P. 1042) (L.D. 1461) Bill "An Act to Update and Clarify the Election Laws" (C. "A" H-501)

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

The Committee Report was read and accepted. The Bill read once. Committee Amendment "A" (H-501) was read by the Clerk.

Representative CAMERON of Rumford presented House Amendment "A" (H-524) to Committee Amendment "A" (H-501) which was read by the Clerk and adopted.

Committee Amendment "A" (H-501) as amended by House Amendment "A" (H-524) thereto was adopted. The Bill was assigned for second reading later in today's session.

#### BILLS IN THE SECOND READING

Resolve, Authorizing the Sale of Certain Property in Connor (H.P. 1129) (L.D. 1574) (Governor's Bill)

##### As Amended

Bill "An Act to Abolish the Maine Waste Management Agency" (H.P. 181) (L.D. 229) (C. "A" H-487)

Bill "An Act to Establish the Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending June 30, 1996" (EMERGENCY) (S.P. 198) (L.D. 541) (C. "A" S-266)

Bill "An Act to Expand Elevator and Tramway Inspection Services" (H.P. 862) (L.D. 1193) (C. "A" H-504)

Bill "An Act to Update and Clarify Administrative Procedures" (H.P. 907) (L.D. 1283) (C. "A" H-496)

Bill "An Act to Make Changes in the Law Establishing the Maine School of Science and Mathematics" (H.P. 1035) (L.D. 1454) (C. "A" H-383)

Bill "An Act to Prevent Master Electrician License Fee Payment Duplication" (H.P. 1044) (L.D. 1463) (C. "A" H-497)

Resolve, Establishing the Task Force on Alcoholic Beverage Sales (EMERGENCY) (H.P. 1075) (L.D. 1514) (Governor's Bill) (C. "A" H-477)

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.

Bill "An Act to Require Notification to the Landowner When Land Is Being Considered for Placement in a Resource Protection Zone" (H.P. 609) (L.D. 819) (C. "A" H-492)

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

On motion of Representative KILKELLY of Wiscasset, was set aside.

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

Bill "An Act to Strengthen Maine's Live Harness Racing Industry" (EMERGENCY) (H.P. 619) (L.D. 829) (C. "A" H-500)

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

On motion of Representative JACQUES of Waterville, was set aside.

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

Bill "An Act to Create the Hebron Village Water District" (EMERGENCY) (S.P. 530) (L.D. 1447) (C. "A" S-267)

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

On motion of Representative UNDERWOOD of Oxford was set aside.

On further motion of the same Representative, tabled pending passage to be engrossed as amended in concurrence.

#### ENACTORS

##### Emergency Measure

An Act to Enhance Export Markets for Maine Sardines and Other Canned Herring Products by Clarifying the Maine Sardine Law (S.P. 426) (L.D. 1149) (C. "A" S-253)

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

On motion of Representative TUTTLE of Sanford, rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby L.D. 1149 was passed to be engrossed.

The same Representative presented House Amendment "A" (H-494) which was read by the Clerk.

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House: This is an amendment being offered on behalf of the Committee on Engrossed Bills to make certain technical corrections. I offer this as Chairman of the Engrossed Bills. Thank you.

House Amendment "A" (H-494) was adopted.

The Bill was Passed to be engrossed as amended by Committee Amendment (S-253) and House Amendment "A" (H-494) in non-concurrence and sent up for concurrence.

##### Emergency Measure

Resolve, to Determine the Effectiveness of Economic Development Incentives in Maine (S.P. 494) (L.D. 1353) (C. "A" S-245)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the



members elected to the House being necessary, a total was taken. 118 voted in favor of the same and 0 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

An Act to Increase Paid Health Insurance Benefits to Retired Teachers (S.P. 232) (L.D. 597)

An Act to Prohibit Any State or Independent Agency from Establishing Private Accounts (S.P. 277) (L.D. 749) (H. "A" H-454 to C. "A" S-151)

An Act to Reduce Government and Consolidate the Regulation of Banks and Credit Unions (S.P. 294) (L.D. 792) (C. "A" S-234)

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)

An Act to Amend the Substance Abuse Testing Laws (H.P. 860) (L.D. 1191) (C. "A" H-415; S. "A" S-259)

An Act Relating to Procedures before the Public Utilities Commission (S.P. 472) (L.D. 1268) (C. "A" S-250)

An Act to Amend the Law Pertaining to Grievance Procedures Concerning Discrimination on the Basis of Disability (S.P. 486) (L.D. 1320) (C. "A" S-246)

An Act to Modify the Electricians' Examining Board Law (S.P. 495) (L.D. 1354) (C. "A" S-244)

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

By unanimous consent, all matters having been acted upon, with the exception of matters being held, were ordered sent forthwith.

#### **BILL RECALLED FROM ENGROSSING DEPARTMENT**

(Pursuant to Joint Order - House Paper 1130)

Bill "An Act to Establish the Maine Judicial Compensation Commission" (S.P. 536) (L.D. 1474) (C. "A" S-260)

On motion of Representative TUTTLE of Sanford, the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby L.D. 1474 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-260) was adopted.

The same Representative presented House Amendment "A" (H-525) to Committee Amendment "A" (S-260) which was read by the Clerk.

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House: Once again, this is an amendment being offered on behalf of the Committee on Engrossed Bills to make technical corrections. The amendment is necessary to correct internal cross referencing. Thank you.

House Amendment "A" (H-525) to Committee Amendment "A" (S-260) was adopted.

Committee Amendment "A" (S-260) as amended by House Amendment "A" (H-525) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-260) as amended by House

Amendment "A" (H-525) thereto in non-concurrence and sent up for concurrence. Ordered sent forthwith.

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

Senate Divided Report - Committee on Human Resources - (12) Members "Ought to Pass" as amended by Committee Amendment "A" (S-269) - (1) Member "Ought to Pass" as amended by Committee Amendment "B" (S-270) on Bill "An Act to Implement the Recommendations of the Maine HIV Advisory Committee Concerning HIV Testing" (S.P. 129) (L.D. 321) which was tabled by Representative JACQUES of Waterville, pending acceptance of either Reports.

On motion of Representative ETNIER of Harpswell, the Majority "Ought to Pass" Report was accepted.

The Bill was read once. Committee Amendment "A" (S-269) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

#### **UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, June 16, 1995, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

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

PENDING - Passage to be Enacted.

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

SENATE DIVIDED REPORT - Majority (11) "Ought to Pass" as amended by Committee Amendment "A" (S-220) - Minority (2) "Ought Not to Pass" - Committee on Transportation on Bill "An Act to Create an Intermediate License for Minors" (S.P. 166) (L.D. 427) - In Senate, Majority "Ought to Pass" as amended Report of the Committee on Transportation read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-220).

TABLED - June 12, 1995 (Till Later Today) by Representative O'GARA of Westbrook.

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

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

The Bill was read once. Committee Amendment "A" (S-220) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

SENATE DIVIDED REPORT - Majority (7) "Ought Not to Pass" - Minority (6) "Ought to Pass" as amended by Committee Amendment "A" (S-232) - Committee on Labor on Resolve, Concerning the Workweek of Department of Corrections Personnel (S.P. 505) (L.D. 1364)

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

TABLED - June 13, 1995 (Till Later Today) by Representative HATCH of Skowhegan.

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

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

Representative JOYCE: Mr. Speaker, Men and Women of the House: A few years ago, a previous legislature reduced the workweek for the Department of Corrections personnel from 42 1/2 hours down to 40 hours to save money. This bill would increase the workweek back to 42 1/2 hours. The biggest problem with this is it has a fiscal note of almost 3.2 million dollars and I still don't think we can afford it. Thank you.

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

Representative PENDLETON: Mr. Speaker, Ladies and Gentlemen of the House: The ladies and gentlemen that came before us on this bill in committee tried to stress the fact that because they had been reduced to 40 hours from 42 1/2 there was a safety factor involved. Back when their schedules were changed, the Department of Corrections moved to a three shift day. Two shifts were eight hours and one of them being 10 hours with the one 10-hour shift being the overlap with the other two to allow the employees of those shifts to find out what had happened on the prior shift. So they have a reporting on and a reporting off on each shift. The Department of Corrections felt that they met the safety requirements for the individuals working in the institutions. I will support my colleague from Biddeford in that the fiscal note on this is just far too great. Thank you.

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

Representative HATCH: Mr. Speaker, Men and Women of the House: This particular bill addresses the fact that shut-down and furlough days were instituted. These people were not made whole when people went back to a regular workweek. The problem is that there is a problem with reporting in. You don't have any overlap time to find out what happened on your shift. There is a big fiscal note on this. I agree that it is a lot of money, but it is a health and safety issue. I refuse to support the "Ought Not to Pass" on this. I believe that if one human life is lost then that is one to many, because they didn't get a report of someone who was having a bad day who was in lockup. When the vote is taken, I would ask for a roll call.

Representative HATCH of Skowhegan requested a roll call on the motion to accept the Minority "Ought to Pass" as amended 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 Jay, Representative Samson.

Representative SAMSON: Mr. Speaker, Men and Women of the House: Prior to the budget crunch, as was stated, these workers worked 42 1/2 hours a week. The reason for that was safety and because of the budget crunch they were cut back to 40 hours. For a period of time, these workers worked for no pay in overlapped shifts so they could inform each other of the problems in their certain areas. It is against the law to work for no pay. I know it is a lot of

money, but as Representative Hatch said, "Is 3 million dollars worth the safety of a lot of the people that work for the state?" I think it is, especially if it was me that was on a line in one of these facilities. I think it is a safety issue. I think that when you vote you ought to look at it as a safety issue for the people that work for us. I hope that you vote "Ought to Pass."

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

Representative JOY: Mr. Speaker, Men and Women of the House: I rise to ask you to defeat the pending motion and accept the "Ought Not to Pass" motion. As Representative Pendleton has explained, the shifts have been changed to two eights and a ten to allow for that overlapping so that there can be discussion of what took place in the previous shifts and to also allow some time in there for training for safety. To try to tag on a 3.2 million dollar price tag onto an extra 2 1/2 hours of overtime, I think is really reaching too far in our particular budget situation. I urge you to defeat the "Ought to Pass" motion. Thank you.

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House: This is a very difficult issue. The issue of fiscal notes were brought up. As a matter of fairness, I would like to share a letter with you that we received during the public hearing. The letter was from a corrections officer.

"This letter is in response to the effects of losing 2.5 to 2.7 hours, depending on what facility you worked at, on the employees at the Department of Corrections. I will attempt to explain this in three ways. First, how has it affected us professionally? Second, how has it affected us personally? Third, how has it affected us on a moral basis.

Professionally, the loss of overtime has eliminated the overlap in shifts that were used for briefings between officers. It was a matter of safety, as has been mentioned. Personally, the loss of this time has resulted in a large gap in wages between corrections employees and the rest of the state employees. Only July 1, 1994, corrections employees were returned to the 40-hour week and it has been very difficult for them since then. Morally, because of the inability to stay abreast of the rise of the cost of living. Many of our fellow employees in corrections have suffered bankruptcy, divorce and many stress related illnesses. We are not asking to be treated any better than any other employees. We just want to be treated in the same manner."

I would encourage you to support the pending motion. Thank you.

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

ROLL CALL NO. 185

YEA - Adams, Ahearne, Berry, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heeschen, Hichborn, Jacques, Johnson, Joseph, Keane, Kilkelly, Kontos, Lemaire, Lemke, Luther, Meres, Mitchell EH; Mitchell JE; Morrison, O'Gara, O'Neal, Poulin, Pouliot, Povich, Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Savage,

Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Stevens, Thompson, Townsend, Treat, Truman, Tuttle, Tyler, Volenik, Watson, The Speaker.

**NAY** - Aikman, Ault, Bailey, Barth, Benedikt, Bigl, Birney, Buck, Cameron, Campbell, Carleton, Chick, Clukey, Cross, Damren, Dexter, DiPietro, Donnelly, Dunn, Farnum, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Kerr, Kneeland, Labrecque, LaFountain, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Spear, Stedman, Stone, Strout, Taylor, Tripp, True, Tufts, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor.

**ABSENT** - Jones, K.; Martin, McElroy, Nadeau, Paul, Vigue, Yackobitz.

Yes, 67; No, 77; Absent, 7; Excused, 0.

67 having voted in the affirmative and 77 voted in the negative, with 7 being absent, the Minority **"Ought to Pass"** Report was not accepted.

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

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

**SENATE DIVIDED REPORT** - Majority (9) **"Ought Not to Pass"** - Minority (3) **"Ought to Pass"** as amended by Committee Amendment "A" (S-237) - Committee on **Legal and Veterans Affairs** on Bill "An Act to Increase the Number of Signatures Necessary for a Candidate to be Listed on a Ballot" (S.P. 403) (L.D. 1091)

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

**TABLED** - June 13, 1995 (Till Later Today) by Representative NADEAU of Saco.

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

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

**SENATE DIVIDED REPORT** - Majority (7) **"Ought Not to Pass"** - Minority (6) **"Ought to Pass"** as amended by Committee Amendment "A" (S-238) - Committee on **Labor** on Bill "An Act to Allow Employees to Recover Damages from Employers Who Refuse Access to Personnel Files" (S.P. 484) (L.D. 1318)

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

**TABLED** - June 13, 1995 (Till Later Today) by Representative HATCH of Skowhegan.

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

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

**SENATE DIVIDED REPORT** - Majority (7) **"Ought Not to Pass"** - Minority (6) **"Ought to Pass"** as amended by Committee Amendment "A" (S-239) - Committee on **Labor** on Bill "An Act to Allow Terminated Employees to Recover Damages from Employers Who Refuse to Provide

a Written Reason for Termination" (S.P. 485) (L.D. 1319)

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

**TABLED** - June 13, 1995 (Till Later Today) by Representative HATCH of Skowhegan.

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

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

**HOUSE DIVIDED REPORT** - Majority (7) **"Ought Not to Pass"** - Minority (6) **"Ought to Pass"** as amended by Committee Amendment "A" (H-413) - Committee on **Labor** on Bill "An Act to Permit Suit against an Employer Who Knowingly Places a Worker at Risk of Serious Bodily Injury or Death" (H.P. 96) (L.D. 131)

**TABLED** - June 13, 1995 (Till Later Today) by Representative HATCH of Skowhegan.

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

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

Representative **STEDMAN**: Mr. Speaker, Men and Women of the House: I am rising to urge you to vote against the pending motion. In testimony given on this bill, it was stated that there would be precedence set in upsetting our long established balance of a no fault system of settling claims in this area. The bill essentially creates a negligent standard and we will see many cases where the claim is the job is an unreasonable risk. Many jobs in the public sector are risky. There was a factor of what happens when the employee acts in a manner that adds to the risk.

Speaking against this bill in committee were the people from workers' comp, the City of Portland Risk Manager, the Maine Council of Self-Insurers, the Maine Chamber of Commerce and Industry, Central Maine Power Risk Manager, the Department of Public Safety and the Maine Employers Mutual Insurance Company. They all recognized the risk involved in the inherent litigation, if this bill passes. I urge you to vote against the pending motion.

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

Representative **JOY** of Crystal requested a roll call on the motion to accept the Minority **"Ought to Pass"** as amended 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**: A roll call has been ordered. The pending question before the House is acceptance of the Minority **"Ought to Pass"** Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 186

**YEA** - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gerry, Green, Hatch, Heeschen, Jacques, Johnson, Joseph, Keane, Kerr, Kontos, LaFountain, Lemaire, Lemke, Luther, Martin, Meres,

Mitchell EH; Mitchell JE; Morrison, O'Gara, O'Neal, Perkins, Pouliot, Povich, Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Townsend, Treat, Tripp, Truman, Tuttle, Tyler, Volenik, Watson, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Bunker, Cameron, Campbell, Carleton, Chick, Clukey, Cross, Damren, Dexter, DiPietro, Donnelly, Dunn, Farnum, Gamache, Gates, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Heino, Hichborn, Jones, S.; Joy, Joyce, Joyner, Kilkelly, Kneeland, Labrecque, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Pinkham, Plowman, Poirier, Poulin, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, Thompson, True, Tufts, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

ABSENT - Jones, K.; Nadeau, Paul, Yackobitz.

Yes, 64; No, 83; Absent, 4; Excused, 0.

64 having voted in the affirmative and 83 voted in the negative, with 4 being absent, the Minority "Ought to Pass" as amended Report was not accepted.

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

HOUSE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (5) "Ought to Pass" as amended by Committee Amendment "A" (H-417) - Committee on Human Resources on Bill "An Act Regarding Recovery from Members of the Tobacco Industry of Medicaid and Maine Health Program Health Care Costs for Tobacco-related Illness, Disease or Disability" (H.P. 331) (L.D. 452) TABLED - June 13, 1995 (Till Later Today) by Representative FITZPATRICK of Durham.

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

On motion of JACQUES of Waterville, tabled pending the motion to accept the Minority "Ought to Pass" as amended Report and later today assigned.

HOUSE DIVIDED REPORT - Majority (11) "Ought Not to Pass" - Minority (2) "Ought to Pass" as amended by Committee Amendment "A" (H-419) - Committee on Agriculture, Conservation and Forestry on Bill "An Act to Require a Silvicultural Basis for Harvesting That Produces Understocked Stands" (H.P. 958) (L.D. 1347)

TABLED - June 13, 1995 (Till Later Today) by Representative KILKELLY of Wiscasset.

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

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Shiah.

Representative SHIAH: Mr. Speaker, Ladies and Gentlemen of the House: L.D. 1347 is a bill that I sponsored, because I am deeply concerned about what is going on with Maine forests. I know a lot of you are not experts in forestry and these might be extended comments here that myself and others have to offer on this bill in urging you to vote against the Majority Report and to accept this bill as drafted.

I believe it is possible to harvest wood in a way that makes sure that there will be more wood to

harvest in future years and much more sustainable forestry methods than are currently employed in this state. This bill would set standards that are based on sound forestry science and would limit clear-cutting to those places where it is really necessary, instead of having them anywhere and everywhere as we currently do. The standards in this bill would make sure that we have a forest in Maine before, during and after clear-cutting takes place. Last year there was a bill that would have banned all clear-cutting in Maine. In response to that, the legislature ordered the Maine Forest Service to do a study, that study is now complete. It found that almost half of all selective and partial cutting which occurs in the state is not leaving behind enough good quality trees to make sure that there will be something there to cut again in 20 years.

This bill is a moderate approach to improving cutting practices without completely banning all clear-cutting. I want to repeat that. This bill does not ban clear-cutting. It merely restricts it and again, if you want to look at the language in the bill, it is very carefully drafted. I believe that it will meet the needs of the state in the years to come. I am frustrated that the Maine Forest Service continues to fail to deal with the problem. While they do study after study, the forest continues to be degraded. During the hearing on this bill, which went about five or six hours, we heard from lobbyist who work in the woods. They support this bill because they are already having trouble finding good wood lots to cut.

The bill is also supported by the United Paper Workers. They know, too, that their jobs depend on a continuous supply of wood. Every year, an area the size of Baxter State Park is degraded by these wasteful logging practices. After a year of study, the time to take action to stop this waste is now. I want to make sure that short-term profits don't destroy Maine's long-term forest base. We want to keep Maine, the Pine Tree State from becoming Maine, the Pucker Brush State. I would urge you to support the Minority "Ought to Pass" Report on L.D. 1347. Thank you.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: I am not sure where to start on this bill. I have to say, to make the assumption that those of us who work in the industry, woods related industry, don't have any respect for the land, makes no sense to me. We would simply cut off our nose to spite our face if we destroyed the forest products industry. I will only speak for the one I work in, in my particular company, we have invested one-half a billion dollars in the State of Maine. Those decisions are not taken lightly and yes, we do some clear-cutting.

It is very apparent to me that the people that continue to malign the industry because of clear-cutting don't understand the industry. I will be the first to admit that I don't enjoy seeing scars on the landscape as I drive around the State of Maine. I will tell you there is an economic reason to do what we are doing. We go back and we do plant those areas that are necessary. Our bigger problem from planting is thinning. Reforestation in the State of Maine with spruces and furs is so prolific that we have to spend more money thinning the small trees so that they will grow than we have to spend

planting. The proliferation of young trees, again, is so thick and so overburdens the possible nutrients in the ground that we have to go in and pay people many thousands of dollars and creates many jobs, quite frankly, to thin those areas that have been clear-cut.

I will tell you that most of these areas that are clear-cut, if we didn't do it that way, we probably wouldn't cut them at all. You will say, that is wonderful, I know some of you feel that way, but, quite frankly, ladies and gentlemen, I don't feel that way. I do care about jobs in the State of Maine. There is more forested land in Maine today than there was 50 years ago, far more. Those of us that live in the rural areas, most all will attest to that. It escapes me why we think it is wonderful to clear-cut land to build housing developments. We think it is wonderful to clear-cut land to build golf courses and ski areas and they will never be reforested and we think that is ok. We clear-cut land and go back and reforest it and we are the enemy.

I, quite frankly, have sat here for three years and listened to it and I have never said anything. I am not going to sit here silently anymore and listen to it. I am not going to sit here silently and watch the same thing happen to our industry here in the State of Maine that provides more money and better jobs than any other industry in the state and watch the same thing happen that happened in the northwest, due to misinformation and ill-conceived ideas. Ladies and gentlemen, I say again, the reforestation in the State of Maine is so prolific naturally that we end up spending more money to thin than is necessary to replant. If we don't replant in places where it is necessary and thin so the individual trees in this area can grow faster, we run out of fiber. Ladies and gentlemen, this is a foundation of our industry. Without fiber our industry goes down the tubes.

We are talking about, I'm guessing 10 billion dollars at least of investment in the State of Maine, probably more than that. I don't understand how anybody would think that we would intentionally do something to destroy the foundation of our own business. It absolutely makes no sense to me. Have we made mistakes, absolutely we have made mistakes. We are trying to do a better job and I think we have made some great strides. There is room for improvement. We will continue to improve. I hope you don't miss the fact that if we don't do it ourselves, we destroy ourselves. We have to do it to preserve our industry and we have to do it to preserve the natural resources of the State of Maine.

I am not afraid to stand up here and say I think we are doing a pretty good job, but we continually are on the line by some people in the state and some states about what a terrible job we are doing. I ask you to defeat this bill and go with the Majority Report. Thank you.

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

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: I agree wholeheartedly with the remarks made by Representative Cameron. The hearing on this bill was long and it was lengthy, but it was enlightening. Interested persons who came before this committee gave some very legitimate reasons for their concerns and they had done some extensive study and research and they explained their concerns and they did it well, in detail. Their

concerns were given very serious consideration by the committee.

It appeared that the message that was brought to us was heard by the commissioner and by the members of the department. They listened carefully and they were themselves understanding of the points that were being made. They felt that corrections where possible and when necessary could be better made through cooperative action between the departments and the landowners. I think many of us who live in the woods, as I do, sometimes get a wrong impression when they go by a lot that has been mismanaged and has been destroyed so far as productivity is concerned for many years to come.

We must not forget that the people who own acres of land, measured by the millions of acres, they're for the purpose of making money. Productivity is very important to them. When clear-cutting is necessary, they do clear-cut. When planting is necessary, they do it. When natural regeneration takes place, they benefit. I think that because of the fact that the concerns were expressed and heard by the committee, the department and by the commissioner, that we will be far better off to pass this bill as it is. We are going to be back in another year and we will see if these concerns have been addressed. I am sure they will be. I am confident personally that they will be. I hope that you will vote with Representative Cameron and me in this vote. Thank you.

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

Representative SAMSON: Mr. Speaker, Men and Women of the House: My earliest recollection of being in the Maine woods was probably when I was three or four years old. It was on a day when I was accompanying my father and grandfather on a hike. I guess the reason it stayed in my mind so much was it was the first time I had really been in the woods and also had trouble keeping up with them. They managed to bribe me with cookies to keep me going and that bribe has worked well over the years.

Over the years, ever since that time, I have been drawn to the Maine woods. As a child, I spent a lot of time playing in the woods, camping in the woods and hiking. As I grew older, I hunted in the woods and I still do. Fortunately, 20 or so years ago, I was able to manage to buy some wood lots and I have bought a few over the past few years and I enjoy working in the woods. I like to cut trees. It seems like though, I pick days like this, hot days, to do it. I like to work in the woods. Over that time it has become a work and a hobby for me and I have kind of learned quite a bit about forestry. I have acquired a lot of friends that are foresters over these years.

I also have worked in the wood industry and I am concerned about the wood and paper industry in the State of Maine. For 30 years, this past week, I have been involved in the paper industry, both as a worker and representing thousands of workers throughout the state in different paper mills, mills, sawmills and so forth. The foresters I have known over the years, when I sat down and in private conversations are concerned about the Maine woods. Yes, there are a lot of trees out there. There are a lot of small trees. They are concerned about the size of the trees in the State of Maine.

I think it would be a step in the right direction to have some guidelines when we do some clear-cuts.

I am not against clear-cuts. I think they are a valuable tool in some stands. I think our clear-cuts are too vast. Yes, it is expensive to do thinning, but that is what I have been doing on my wood lots for the past 10 or 15 years. There is a reason for that, the reason is, if you do it right, you have a greater yield over a longer period of time and the trees are of a higher quality. I think we have to look, not only at today, but at the future in the State of Maine. I think if you care about the future of the State of Maine, our children working in the woods industry, I think you have to look at some regulation and I don't mind being regulated on my wood lots. I have been for some years.

I have some land on a stream. I can't cut all the trees I want on that stream. I agree with it. I think it would be bad if I went along and cut the trees on that stream. I feel owning property is a responsibility and I think we all should. I think the paper companies, big landowners and small landowners should look at this as a responsibility for the people that are here today and the people that are going to be here tomorrow. I rise in support of this bill and I hope that you vote "Ought to Pass".

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: My background is the woods industry. I probably was born as far back in the woods as you can imagine. When a log cabin with a light was really something quite important. I understand and I have had a great deal to do with the timber industry. I was born at Churchill Lake, which is 92 miles west of Ashland. We used to get out once every month and a half.

The industry, ladies and gentlemen, has been regulating itself. I have gone through the Scott Paper timber lands and have seen what was once clear-cut. I have seen it at a 5-year level, 10-year level, 15-year level, 30-year level and a 35-year level when it is time to recut. I have seen select cutting. I now have a nephew that is responsible for the northern part of the State of Maine as far as the cutting of timber lands by Seven Islands. They have been select-cutting since 1941. In 1941, they started cutting a township that was under their jurisdiction and through the select-cutting process has now turned a full cycle and last summer recut the piece of property that was cut in 1941. Ladies and gentlemen, they are doing a good job.

I would ask you to please support the Majority "Ought Not to Pass." We do not need this kind of regulation on our major industry in the State of Maine. Thank you.

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

Representative TYLER: Mr. Speaker, Men and Women of the House: As we listened in committee on this bill, we did have some foresters come forth, however, if you listened to all the testimony and all the phone calls I received at home, I found that the foresters, the professional level people, run about 50/50 on this bill. Some of them think it is a great idea. A lot of them do not.

I think what we should do here is the Governor has proposed a sustainability council that is going to work over the course of the next two years within the Department of Conservation. What we should do is allow this council to come forth with this

recommendation. There is a lot of concern about Maine forests and I think the chief executive is very concerned also. He has proposed putting forth this task force to come up with a total number of recommendations and I think this is what we should do.

The testimony was about 50/50 on this bill and I am not sure we can put forth a bill with that kind of mixed reaction. I think we need more information. There are some great concerns, but at this time I would urge you to vote "Ought Not to Pass" and wait for the next legislature. Thank you.

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

Representative GOOLEY: Mr. Speaker, Ladies and Gentlemen of the House: I stand before you today opposed to the passage of L.D. 1347 and recommend accepting the Majority "Ought Not to Pass" Report.

I am a professional forester and have been involved in forestry in Maine since 1955. Since that time, I have traveled every quarter of Maine and seen the high quality forest management and the other management, which is no management but cut the forest for maximum profit. What happens after that is somebody else's problem and maybe nobody's problem, if a butchered wood lot is out-of-sight and out-of-mind. Good forest management is a science and an art. It doesn't just happen. Somebody has to make a conscience decision that a forest is a special commodity and that there is a right way to do something and a wrong way to do something.

The practice of forestry is backed by federal, state and private research going back to the late 1800's. Back in the 1960's, there were about 400,000 acres of forest harvested each year, mind you, Maine has about 17 million acres of commercial forest land. This 400,000 acres of forest harvested each year was by clear-cutting and partial harvest cutting methods. Today there are about 450,000 acres harvested of which 399,000 acres are partial harvest and 51,000 acres is clear-cut. The harvest level is strong in Maine for forest products today.

According to the recent evaluation of the Forest Practices Act of the Maine Forest Service, the practice of clear-cutting has been reduced significantly since the act became law in 1989. Down from 18 percent of the total cut in 1990 to 11 percent in 1993. So this is a significant reduction in the amount of clear-cutting. Clear-cutting is a tool of the forester, but the primary method is partial cutting or the selection method. I have heard over the years in my time working in forestry, we call it selective cutting, but selective cutting is a misnomer, because it can be "cut the best and leave the rest." That is not what professional foresters are trying to put on the land.

The term selective cutting is a very specific thing and it means improving the forest. Forestry has been a part of the Maine tradition since the 1600's and scientific forest management is improving each year. The Forest Practices Act is currently playing a part in the overall objectives for a healthy and productive forest. It is an imperfect law and will need to be addressed over time. The current law has had too little time to make a major change, at this time. That is why I recommend accepting the Majority "Ought Not to Pass." Thank you.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I would urge you also to support the Majority "Ought Not to Pass" Report on this particular bill. L.D. 1347 establishes a new standard for the amount of wood to be left standing in an area after cutting. What it doesn't talk about is the quality of the wood that is left after cutting and there are a number of other issues that it doesn't talk about.

The amendment to the Forest Practices Act addresses one item individually at the exclusion of others. A significant majority of the committee voted against this bill. Some were adamantly opposed to the bill and the concept and others were more concerned about timing. Speaking for myself, not as a representative of the committee, I would like the record to indicate that my vote in opposition to this bill has much to do with my willingness to believe that the department and the administration are seriously looking at the issues and not creating another study committee, but, in fact, putting together an action committee.

On April 25 of this year an Executive Order was signed that creates the Maine Council on Sustainable Forest Management. I am convinced the department will endeavor to work with the council and create a council that fairly represents the interests and concerns of the various groups that care about forests and again that it will be an action committee. I have already met with people from the department that have expressed an interest in having that council meet with the Agriculture, Conservation and Forestry Committee at least two times during the next session in order to update the committee on what is going on and what work they have taken.

I believe that a comprehensive approach, which may or may not include this particular element, is a better approach than piece-by-piece solutions. I am particularly concerned about what happens to the small wood-lot owner and some of the others who have had to deal with a number of changes over the years and would have to deal with one more change and then the Council on Sustainability would come back with additional changes.

I think what we need to do is have a package that is put together that we can provide education for the forest owners and make sure that everybody has all the information they need to deal with the changes that are taking place. As we continue to do small changes that, in fact, cause people to do things that may or may not be within the plan that they currently have in place, I think we are causing a great hardship for particularly the smaller landowners. I would urge you to accept the Majority "Ought Not to Pass" Report and allow the council and the committee to continue work. Thank you.

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

Representative BUNKER: Thank you Mr. Speaker, Men and Women of the House: I have sat here and listened to a lot of the debate. I am a cosponsor on this bill. The only reason why I was a cosponsor is because I wanted this dialogue and I wanted this debate and I wanted this topic to be discussed in earnest in committee. My concern, ladies and gentlemen of the House, is for the paper companies and for the worker and for the people of this state.

I lived in northern Washington county back 20 years ago and watched the paper company up there,

which has now changed their line of thinking on how they do clear-cutting and how they handle their properties and what they should be doing to sustain the forestry in the State of Maine. I give them all the accolades for doing that. I know of a lot of the other major companies in the State of Maine that have got some real outstanding programs on-line and really are taking this issue to heart, because you and I are the people that know that we want that industry to be here 20 years from today.

Twenty years ago when they were doing their clear-cutting and mechanical harvesting and the bottom line, you know, it costs x amount of dollars to run that equipment and you have to generate x amount of cords of wood to pay for x amount of machinery and x amount of personnel and put it through that big machine we call a paper mill and turn out paper that we see in front of us on our desks. Well that is it, bottom line. Those corporate people or stockholders, they don't care about the State of Maine. They are sitting in other states. They don't care whether we are going to cut two pieces the size of Baxter State Park this year or next year before we come back with this study from the council.

What we need to do, ladies and gentlemen, is to vote L.D. 1347 into law and if not, please try to vote that into law and let's keep their feet to the fire. If we don't, don't kid yourself, these companies didn't change around their forest practices because they cared about our workforce 20 years from now. They turned it around because of public opinion and a pressure and the fact that we were going to do some things that were going to make it very difficult on them to make more money. I think that is what we have to keep in mind. Let's keep their feet to the fire. Let's vote against this Majority "Ought Not to Pass" and show them that the people of Maine and our forestry is important to us. Thank you.

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

Representative HEESCHEN: Thank you Mr. Speaker, Members of the House: I rise in opposition to the motion on the floor and in support of the bill. I think we do have a problem. We can't just brush it off like the paper companies as if its just aesthetics, that they are doing everything right. Sometimes the visual effects say more than they really mean, but I do believe the visual effects are symptoms of a larger problem.

I believe that the public, a wide sector of the public, has increasing concern and are uneasy about the future of Maine's forests. We heard from a large number of people at the public hearing. It went for about five hours plus. We had at least 36 people testify. We received written comments from probably a half dozen or more. Ten of those 36 were in opposition to this, this included seven major industries in the state, plus two major landowner associations. Six people testified neither for nor against, these were primarily foresters. Twenty people testified in favor of this, including the sponsors of the bill, representatives of labor unions, paper workers, independent loggers, we received letters from foresters. We received testimony and letters from several owners of wood lots. We received comments from pilots and other people who don't have any particular connection to the forest, except their concerns about Maine's future economy.



I would like to give you a little sample of what a couple of the loggers expressed their concern about. One of them commented that he was a fifth generation logger from Cambridge, Maine. He had serious concern about the future health of Maine's forests. Another logger was from Strong, he said he wanted to offer the perspective of small independent lumbermen. He has managed and harvested a 2,100 acre lot for the past 12 years, actually 16 years. Until recently operated a custom saw mill. He says, "In both locations, as well as in conversations with other lumbermen, mill owners, wood buyers and mill workers I witnessed changes in the forest industries of the western Maine mountains."

"Lumbermen range further and further from home every year to find work. Wood lots are difficult to come by. High purchase price of wood lots result in harder cuts. More marginal land is being harvested." He has a concern when he sees paper companies buying saw logs off the landing at a saw mill for pulp wood. He has concern when he sees the size standards down for all uses. He has a concern when he sees that certain species are simply not available in sizes that make sense.

The paper workers who spoke, their living depends on the future of an adequate and continuous fiber supply. I agree with the Representative from Rumford that fiber is really an important issue here. I agree also that our soils and our climate does regenerate very well, but one of the concerns is are we cutting so hard that this regeneration, as good as it may be, will not be adequate. We may cut ourselves a big gap in our fiber supply. If that concern is brought forward by people who are pilots who fly over the north woods and see the extent of the cutting, also seems to be corroborated by satellite imagery which shows very large tracts of Maine forests which are not forests anymore. Sure, they will regenerate, but how soon? Will it be in time, so that we have a continuous supply, so we have our economy doesn't go up and down.

We had testimony from David Field, he is the Director of the Forest Program at University of Maine. He testified neither for nor against, but he was very frank and he shared his concerns that the current Forest Practices Act is really inadequate. It was only a good start. He says there is a lot of cutting out there without profit and no long-term benefits. He sees this as a timber supply bill and that there is a strong public interest in maintaining adequate timber supply. He noted the importance of the base that this industry provides for Maine's economy. He believes that Maine will become more and more important as a source of supply. Therefore, we really do need a strategic plan for long-term sustainable forests in Maine.

The New England Society of American Foresters, the Maine Division, testified neither for nor against. They said that their membership was sort of divided on this. A lot of them thought that this bill was a really good bill. A lot of them didn't want to have anything to do with it. They did note in their testimony that the current Forest Practices Act has little basis in the science of silviculture, other than its requirement for regeneration. The regeneration standards adopted are minimal however; they merely ensure that harvested stands will regenerate to commercial trees.

You heard a reference to the study that the Maine Forest Service conducted over the past year with regard to clear-cutting. That report essentially

says there is no problem, but I think if you look at our current Forest Practices Act standard for clear-cuts, that it has no basis in silviculture, it is merely a mechanical thing saying a clear-cut is something that is greater than this size and more than this percentage of the basal area cutoff.

There is evidence that a lot of cutting is being done to just above that level of what is defined as a clear-cut. Some of those cuts may actually be worse than clear-cutting. If they leave trees that are of no further use, they may suppress good regeneration of the species we want. I think there is also some questions about the definitions that the Forest Service came up with in their report. Their definitions of well stocked and moderately stocked land bear no resemblance to silviculturally accepted definitions. The basal area, the area of the trees that are left are far below what foresters generally consider the minimal stocking for a manageable stand. Though eighty-five percent of the cutting right now is technically not clear-cut, some 45 percent of the cutting that is going on is below the minimal standards to maintain a productive forest.

I think as one person who testified and sent us a letter, who has a degree in forestry management, said that if the figure complying with good harvesting techniques were higher, the bill wouldn't be before us. I think that is the issue. This is a debate that needs to happen and I am concerned that the committee and we as a legislature are missing an opportunity. We did have a lot of good testimony, as I mentioned, from both sides. Some of the things that the industry was saying that they were planning on implementing in terms of sustainability principals sound very good. Again, if those things were actually in place and carried out, I think we could rest a little easier, but a lot of us aren't holding our breath.

The committee discussion in the work session was a bit curious. We never really addressed the real issues and that is, if the current standards are not adequate and the proposed bill is far too onerous, what then is a good approach? The discussion mainly focused on two seemingly incompatible, but seemingly simultaneously held ideas. One, that there is no problem, that everything is growing back, the industry is doing the best it can and the best in an all perfect world. Juxtaposed against that "there is no problem" idea was "well, the problem is going to be taken care of by the Maine Council on Sustainable Forest Management," the Governor's Sustainability Council.

I think it's underlying a reluctance to acknowledge that we are faced with real problems that we do need to deal with and relatively soon. We do need to have this discussion and soon. We need to educate ourselves about the problem. I think the committee could have gone farther to educate itself about the problem. We need to discuss possible solutions. We don't necessarily have to adopt anything, but we can carry them out and discuss them and see what the ramifications really would be, not just listen to allegations. I mean allegations on either side.

We need to look at what scientifically appropriate approaches would ensure that our forest continue to be a renewable and sustainable resource. I hope that in putting this off through the Governor's Sustainability Council we are not just putting off hard decisions. I think it is disappointing that the committee did not synthesize a lot of what was said



in the hearing, and then make those suggestions to the council, but rather we sent everybody who appeared before us at the hearing, we said ok you have another place you can go peddle your papers. I do believe we missed an opportunity.

I should note here for the benefit of those wondering and to say if someone went to the effort of asking for the Committee Report, there were only two of us who voted for this bill, myself and Representative Ahearne. Everybody else voted "Ought Not to Pass". You can look up your list and see who that was. I think that if we had had a better discussion in the committee, it might not have been necessary to bring this out to the floor, at this time, and get all these things on the record, as it were.

In closing, I would like to address somewhat the aesthetic argument and aesthetics always seems to be the epithet that is used to discredit anybody who is concerned about clear-cutting. I should note that I do have a wood lot and I have done timber stand improvement with the advice of a forester and at one time some years after I had cut a certain area, a number of acres, that forester and I were walking through the woods looking for other areas to work on and he asked me when we walked through the area that we had cut a few years back, he said, "Does it look bad to you?" I said, "No." There were plenty of trees lying all over the place that were unmarketable and unaccessible at that time, so it would look like sort of a mess. But I was looking at the trees that were left thinking that, in fact, we had improved the forest.

Aesthetics do play a role, I believe, but my architectural background compels me to believe that the physical environment, your working environment, your living environment or landscape has a definite impact on your life, on our productivity and our health. What we sometimes dismiss as inappropriate reaction to clear-cuts may be symptomatic of real concerns over the future of Maine's economy. I think this unease is felt and experienced by a wide spectrum of Maine's citizens. We really should do everything we can to make sure that we do have a sustainable forest and a sustainable economy and a sustainable forest industry. I wish all the best to the Governor's Council of Sustainable Forests.

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

Representative DEXTER: Mr. Speaker, Men and Women of the House: My how things have changed since I came here 19 years ago. I was the only woodsmen in both ends. Now, I find all kinds of experts. Let me point out just a couple of things and this will be brief. In the cutting practice in that bill, it encourages the growth of Beech, which is the least desirable species, that is just one item. During the testimony there was proposed that the forest should be controlled by a public trust, like the fishing industry. Now isn't that a scary thought. I think it is time we clear-cut this. I move the indefinite postponement of this bill and all its accompanying papers.

Representative DEXTER of Kingfield moved that the Bill and all accompanying papers be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: I agree with Representative Dexter and a lot of the other things that have been

said here this morning, but there is one point that has not been brought out. We cannot afford this bill. It hasn't been mentioned that we do not have the number of foresters it would take to implement this bill, that is a big problem and so we do need to go with the Governor's Council to Study the Sustainability of Forestry Practices. I would urge you to go along with the indefinite postponement of these papers. Thank you.

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

Representative KEANE: Mr. Speaker, Ladies and Gentlemen of the House: If you think we are having a prolonged debate on this subject, I invite you to attend my family reunions every year. I have two sons, both forest engineers and both educated at the University of Maine and other institutions. One is managing the woodlands up north for SAPPI, he used to do it for Scott Paper Company. My other son is a research scientist in Montana working with the U.S. Forest Service. We argue all the time. I can't stand clear-cuts. I hate clear-cuts. I don't want them, but they constantly tell me every year that clear-cuts, when used with the good forest management program, will not hurt the forest and will help to regenerate it and it will not be harmful in any way to the forest. We have been arguing this for three years. Now, after listening to more debate and doing some research on the matter, I think this year at Mt. Kineo, we are going to have our family reunion in July. I am going to tell my sons we educated you at the University of Maine to help us and lead us in the future. I think we ought to give you a little bit of leeway and a little bit of faith and confidence. I am going to yield this year. I urge you to support the indefinite postponement. Thank you.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: First, ladies and gentlemen of the House, I apologize for my emotions getting carried away the last time I spoke. I apologize for that. I don't intend to do that. I know that doesn't get me anywhere and it just turns people off. Those of you who don't know me very well think that I am a plant for the paper company. I have heard people talk about, "I'm a forester, I'm a logger and I have been in the woods since I was old enough to walk and so on and so forth."

I have a wood lot. It has been in my family for over 100 years and I am very proud of that wood lot and I would welcome any of you to come walk through that wood lot with me. We have pine trees that have probably been there since my family first owned this land. It has pine trees that are three to four feet on the butt. We don't waste our wood. We cut what is ready to be cut. I have never clear-cut anything. The reason I haven't clear-cut anything is that I don't have the species that wants clear-cutting.

Clear-cutting is a valuable practice and as the previous speaker said, my good friend from Old Town, we are teaching our young people at the University of Maine how to manage forests and we are sitting here criticizing them for what we have taught them. There is something wrong with that. I have heard the comments made that loggers are having to travel further to find wood to cut. In some cases that is true. I have a lot of good friends that are loggers and I stand here and I tell you with no reservation

whatsoever that those people that are doing a good job don't have to travel to find wood to cut.

The people that are traveling are the people that have gone in and done things to the land that we all abhor. None of us want them on our land and that includes the paper industry. They can't get jobs with the paper industry either. Those are the people that are traveling further and further to find wood to cut. The people that are doing a good job don't have any trouble. They have people coming to them.

I noticed on the handout there was a reference to UPIU, United Paper workers supporting this bill. I can only speak for the company that I work for. We have a group of UPIU people in our company that are traveling around the country now working against bills just such as this because they are afraid of what these bills are and what is behind these and what the intent of these are, and what they are going to do to their jobs.

There are no salaried people involved in this Pulp and Paper Resource Council, which is a nationwide effort by the unions of the Pulp and Paper Industry, started by those who lost their jobs in the northwest. They are traveling around the country. They are lobbying some of you folks. I know I have talked to them in the halls. They are lobbying in Washington against just such things as this. It will serve no purpose as far as creating jobs. I urge you to support the indefinite postponement of this bill and all accompanying papers. Thank you.

Representative GATES of Rockport requested a roll call on the motion to indefinitely postpone the Bill and all accompanying papers.

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

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

The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: I can imagine your surprise when you saw my name as one of the cosponsors of this bill. I came at this issue from a slightly different direction than some of the other speakers who preceded me this morning.

One of them was five years ago, my seat mate from Cape Elizabeth, Representative Simonds, sponsored a Resolve. Introducing the word sustainability for the first time that we could find into language that was acted upon by this body. We have come a long way since then in looking at sustainable practices that lead to long-term economic well being in this state. The debate we have had on this bill this morning pleases me very much to see the kind of progress that we have made in thinking about how our protection and stewardship of our natural resources does, in fact, have a direct relationship to our state's economic well being.

Secondly, I come to this issue, in part, because of the work I have done on other economic development issues. Reminding myself and hoping that you are reminded as well that the forest products is the largest contributor to the Maine economy. Second is tourism and third is defense related industries. I have made a point in my own work to try to be as even

handed in the way that I look at these issues as I possibly can be, which allows me to think about this particular issue before us in the bill as an issue of sustainability. I am pleased to hear that the Chief Executive will have a council.

I am not convinced that this will give us all the solutions that this particular piece of legislation might produce, but I think it does say to all of us, we need to be mindful that there are issues before us that involve scientifically based decision making, as it deals with the largest contributor to the total state's economy. That is an important thing for this body to be aware of. Here is the reason. We are the policymakers, not the paper industry, not the tourism industry, not the defense related industry. We are the policymakers. That leads me to the conclusion that our interests in the state's forest practices is, in fact, a legitimate public policy interest.

For that reason, I will not be supporting the indefinite postponement and encourage all of you to think broadly about this issue as you return to your districts and as you continue to get more information about this issue. I hope what I believe is a very productive debate will continue. Thank you Mr. Speaker.

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

Representative SAMSON: Mr. Speaker, Men and Women of the House: I just want to rise to let you know that the United Paper Workers International Union is in agreement with this bill. The paper workers in this state are concerned about the sustained yield and they would like to see an increased yield. We talked about earlier about having more forest in the state than we did 50 years ago and that is true. We also have more capacity out of paper mills in this state. Once again, the United Paper Workers International Union is in favor of this bill. Thank you.

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

Representative HEESCHEN: Thank you Mr. Speaker, Members of the House: I urge you to oppose the pending motion. I am not sure why it was made since the other motion would have killed this bill off probably just as well.

I hope that my wood lot in another 80 years looks as good as Representative Cameron's wood lot that has been in his family for 100 years. I, of course, took over mine only 20-some years ago, the previous owners had not probably had in mind that they were going to have it for a long time. Earlier a speaker mentioned and challenged the idea that there is any kind of public trust involved here. I am not saying that this is the same as the fisheries, but I think that there is public interest involved is acknowledged by the fact that we do have a tree growth tax law, which is intended to encourage commercial use of forests.

I think the public interest in a bill, such as the one here is in seeing that, in fact, the money that we are putting into supposedly getting that public interest actually is money well spent. I think eventually the industry will be driven to do the right thing, because of the demand of the public. Already Seven Islands is doing some certification. I think the public is going to demand that their wood and their products come from companies that are doing the right thing.

What I don't want to see happen is what happened out in the northwest where the cutting went so fast that essentially the forest is liquidated and you have a huge forest industry that is running around trying to make a living on the last 10 or 15 percent of the forest out there. In my previous comments, I did not discuss anything specific to this bill, because, in fact, the motion was to accept the "Ought Not to Pass" requirement. I addressed the problems that I see before us and what we should be doing to try to solve them, to create a dialogue.

From some of the comments of a couple recent speakers here criticizing the bill that wasn't before us for certain things—for encouraging certain species or for costing us too much for foresters. If we had talked about these issues in committee, we might have come to a resolution that, in fact, it was too expensive and that, in fact, there were better ways of approaching the issue that wouldn't encourage undesirable species.

I think, perhaps, that the unwillingness to address these issues is intended so that scare tactics like this can be thrown out. I am the first to admit that this bill isn't perfect. I would have liked to see us do a fair amount of work on it and treat it seriously. I do oppose the pending motion and I urge you to do so. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 187

YEA - Aikman, Ault, Bailey, Barth, Bigl, Birney, Bouffard, Buck, Cameron, Campbell, Carleton, Chick, Clark, Cloutier, Clukey, Cross, Damren, Dexter, DiPietro, Donnelly, Dore, Dunn, Farnum, Fisher, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Heino, Hichborn, Jacques, Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kerr, Kilkelly, Kneeland, Labrecque, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Morrison, Murphy, Nass, Nickerson, O'Gara, O'Neal, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Pouliot, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rosebush, Rowe, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, Tripp, True, Tufts, Tyler, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor.

NAY - Adams, Ahearne, Benedikt, Berry, Brennan, Bunker, Chartrand, Chase, Chizmar, Daggett, Davidson, Desmond, Etnier, Fitzpatrick, Gamache, Gates, Gerry, Green, Hatch, Heesch, Johnson, Jones, K.; Kontos, LaFountain, Lemaire, Lemke, Luther, Martin, Meres, Mitchell EH; Ott, Povich, Richardson, Rotondi, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Truman, Tuttle, Volenik, Watson.

ABSENT - Driscoll, Mitchell JE; Nadeau, Paul, Yackobitz, The Speaker.

Yes, 98; No, 47; Absent, 6; Excused, 0.

98 having voted in the affirmative and 47 voted in the negative, with 6 being absent, the Bill and all accompanying papers were indefinitely postponed and sent up for concurrence.

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

On motion of Representative JACQUES of Waterville, the House recessed until 3:00 p.m.

(After Recess)

The House was called to Order by the Speaker.

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

#### SENATE PAPERS

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$3,000,000 to Encourage Agricultural Enterprises in Maine" (S.P. 589) (L.D. 1575) (Governor's Bill)

Came from the Senate referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Was referred to the Committee on Appropriations and Financial Affairs in concurrence.

#### Ought to Pass as Amended

Report of the Committee on Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-283) on Bill "An Act to Amend the Laws Pertaining to the Regulation of Borrow Pits" (EMERGENCY) (S.P. 525) (L.D. 1423)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-283) and Senate Amendment "A" (S-288).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-283) was read by the Clerk and adopted. Senate Amendment "A" (S-288) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

#### Divided Report

Majority Report of the Committee on Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-275) on Bill "An Act to Ensure Consistency Between State and Federal Environmental Requirements" (S.P. 347) (L.D. 952)

Signed:

Senators:

LORD of York

HATHAWAY of York

RUHLIN of Penobscot

GOULD of Greenville

POULIN of Oakland

SAXL of Bangor

MERES of Norridgewock

GREENLAW of Standish

NICKERSON of Turner

MARSHALL of Eliot

DAMREN of Belgrade

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

Signed:

Representatives:

BERRY of Livermore

SHIAH of Bowdoinham

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-275)

Was read.

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

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

#### Divided Report

Majority Report of the Committee on **State and Local Government** reporting **"Ought Not to Pass"** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for Runoff Elections (S.P. 451) (L.D. 1224)

Signed:

Senators: AMERO of Cumberland

CARPENTER of York

LONGLEY of Waldo

Representatives: DAGGETT of Augusta

SAXL of Bangor

GERRY of Auburn

ROSEBUSH of East Millinocket

ROBICHAUD of Caribou

LANE of Enfield

Savage of Union

YACKOBITZ of Hermon

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-285) on same RESOLUTION.

Signed:

Representatives: AHEARNE of Madawaska

LEMKE of Westbrook

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

Was read.

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

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: It may not be hotter than Hades in here, but it is getting very close. I will keep my remarks short. I do urge you to vote against the pending motion. What is involved here is the question of or the lack of majority elections in the State of Maine. This is on the state level, the Governor and State Legislature. What it would provide for is what a number of states already do and that is runoff elections. I understand the concern that is aroused by that, but there also is the alternative concern of having in effect, minority governments.

Let me just give you the figures for Governor of recent history when you have a multi-party system as we have in Maine and apparently it is not going to go away. In 1978, the Governor was elected with a minority of the total votes. In 1986, the Governor was elected with the minority of the votes. In 1990, the Governor was elected with the minority of the votes and again this happened in 1994. I think by the stability and credibility of government it is a good thing to have a clear majority in an election of this type and that is why the amendment was proposed. I would urge you to at least give serious consideration to this factor when you vote on the pending motion. Thank you.

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

Representative LIBBY of Buxton 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.

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

#### COMMUNICATIONS

The following Communication: (S.P. 590)

#### 117TH LEGISLATURE

June 16, 1995

Senator Philip E. Harriman

Representative G. Steven Rowe

Chairpersons

Joint Standing Committee on Business and Economic Development

117th Legislature

Augusta, Maine 04333

Dear Senator Harriman and Representative Rowe:

Please be advised that Governor Angus S. King, Jr., has withdrawn his nomination of Richard J. McGoldrick of Cape Elizabeth for appointment as a member of the Finance Authority of Maine.

Pursuant to Title 10, MRSA Section 965, this nomination is currently pending before the Joint Standing Committee on Business and Economic Development.

Sincerely,

S/Jeffrey H. Butland

President of the Senate

S/Dan A. Gwadosky

Speaker of the House

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

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

#### CONSENT CALENDAR

##### Second Day

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

(S.P. 433) (L.D. 1201) Bill "An Act to Provide for Public Health Standards in Public Schools Similar to Standards Required in Private Industry" (C. "A" S-272)

(S.P. 519) (L.D. 1401) Bill "An Act Relating to the Establishment of a Continuum of Quality and Affordable Long-term Care and Service Alternatives" (C. "A" S-271)

(H.P. 322) (L.D. 443) Bill "An Act to Place a Spending Cap on State Senate and House Campaigns" (C. "A" H-520)

(H.P. 890) (L.D. 1243) Bill "An Act to Reestablish the Great Pond Task Force" (C. "A" H-514)

(H.P. 959) (L.D. 1348) Bill "An Act to Reform the Process of Periodic Review of Programs and Agencies" (C. "A" H-516)

(H.P. 1021) (L.D. 1436) Resolve, to Preserve the Dairy Industry in the State (EMERGENCY) (C. "A" H-518)

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

(H.P. 1104) (L.D. 1551) Bill "An Act to Protect Traditional Uses in the North Woods" (C. "A" H-519)

On motion of Representative KILKELLY of Wiscasset was removed from the Second Day Consent Calendar.

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

#### **BILLS IN THE SECOND READING As Amended**

Bill "An Act to Implement the Recommendations of the Maine HIV Advisory Committee Concerning HIV Testing" (S.P. 129) (L.D. 321) (C. "A" S-269)

Bill "An Act to Update and Clarify the Election Laws" (H.P. 1042) (L.D. 1461) (H. "A" H-524 to C. "A" H-501)

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 Paper was Passed to be Engrossed as Amended and sent up for concurrence.

Bill "An Act to Create an Intermediate License for Minors" (S.P. 166) (L.D. 427) (C. "A" S-220)

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

On motion of Representative HEINO of Boothbay was set aside.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative Heino.

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for not being here in the House this morning to speak against this bill. I was one of two on the Minority Report. I would like to share with you the reasons that I am on the Minority Report. During the testimony, we asked for a cost and we couldn't come up with a figure because we were told that there was some question of the enforcement, whether or not it would be enforced. If a law enforcement officer is going down the street or meets a car or just sitting in a parking lot and watches a car go by at night, how will that law enforcement officer know if the person driving that car is 17 years old or 77 years old? If you are really going to enforce this law, you are going to have to just go out there and at random stop cars.

If you find somebody who is in the 16 or 17 year old category and they don't have the proper permit with them, then, of course, they are guilty of a violation. I personally feel that this will cause speeding. Some of these youngsters that will be working will be going home very close to the curfew hour and may be driving faster than they need to, so they don't get caught. It could possibly cause more high-speed chases. If somebody is stopped for a multitude of reasons, they may not want an officer to approach the car. It could cause that. There are two main things that I really object to in this bill.

One of them is, I think it discriminates against the young children in my district. I live in a coastal community that hires thousands of youngsters each year to help operate the tourist business. Maine youngsters in the 16 or 17 year old category will have to get and carry with them permits if they are going to be out after the curfew. There are many jobs in my area that will require young people to be out after the curfew hours. However, if you are a young person working in my area during the summer and you are from out-of-state, you are exempt from this. You can drive around any hour of the night that you wish.

One more thing, I think that this bill removes yet another responsibility of a parent. If you have a 17 year old child and he or she is out working or is out at midnight and you don't know where they are, I can assure you our problems are greater than what this bill will cure. I would ask for a roll call. I would ask you to consider to vote against this bill. Thank you.

The same Representative requested a roll call on passage to be engrossed.

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

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

On motion of Representative MITCHELL of Vassalboro, tabled pending passage to be engrossed and later today assigned. (Roll Call Ordered)

#### **ENACTORS Emergency Measure**

An Act to Further Extend the Workers' Compensation Deficit Evaluation Proceeding (S.P. 588) (L.D. 1573) (Governor's Bill)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 108 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

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

Bill "An Act to Create an Intermediate License for Minors" (S.P. 166) (L.D. 427) (C. "A" S-220) which was tabled by Representative MITCHELL of Vassalboro, pending passage to be engrossed. (Roll Call Ordered)

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Engrossed. All those in favor will vote yes; those opposed will vote no.

#### **ROLL CALL NO. 188**

YEA - Adams, Ault, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, Chartrand, Chase, Chizmar, Cloutier, Clukey, Cross, Daggett, Desmond, Dore, Driscoll, Etnier, Farnum, Gamache, Gates, Gerry,

Gieringer, Gooley, Gould, Green, Hatch, Jacques, Jones, K.; Keane, Kontos, Lemke, Lindahl, Martin, Marvin, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Perkins, Pouliot, Povich, Reed, G.; Reed, W.; Richardson, Ricker, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stone, Strout, Thompson, Treat, Tripp, Truman, Tuttle, Tyler, Vigue, Volenik, Watson, Whitcomb, Winglass, Winn, Winsor, The Speaker.

NAY - Ahearne, Aikman, Bailey, Barth, Bigl, Birney, Buck, Campbell, Carleton, Chick, Clark, Damren, Davidson, DiPietro, Donnelly, Dunn, Fisher, Fitzpatrick, Greenlaw, Guerrette, Hartnett, Heeschen, Heino, Hichborn, Johnson, Jones, S.; Joseph, Joy, Joyce, Joyner, Kneeland, Labrecque, LaFountain, Lane, Layton, Lemaire, Lemont, Libby JD; Libby JL; Look, Lumbr, Luther, Madore, Marshall, Mayo, McAlevey, Meres, Nass, Nickerson, Ott, Peavey, Pendleton, Pinkham, Plowman, Poulin, Rice, Robichaud, Rosebush, Savage, Simoneau, Spear, Stedman, Stevens, Taylor, Townsend, True, Tufts, Underwood, Waterhouse, Wheeler.

ABSENT - Dexter, Kerr, Kilkelly, Lovett, McElroy, Paul, Poirier, Rotondi, Yackobitz.

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

72 having voted in the affirmative and 70 voted in the negative, with 9 being absent, the Bill was passed to be engrossed as amended and sent up for concurrence.

Senate Divided Report - Committee on State and Local Government - (11) Members "Ought Not to Pass" - (2) Members "Ought to Pass" as amended by Committee Amendment "A" (S-285) on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for Runoff Elections (S.P. 451) (L.D. 1224) which was tabled by Representative MITCHELL of Vassalboro pending the motion of Representative DAGGETT of Augusta to accept the Majority "Ought Not to Pass" Report. (Roll Call Ordered)

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

ROLL CALL NO. 189

YEA - Aikman, Ault, Bailey, Barth, Berry, Bigl, Birney, Bouffard, Brennan, Bunker, Cameron, Campbell, Carleton, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, DiPietro, Donnelly, Dore, Driscoll, Dunn, Farnum, Fisher, Fitzpatrick, Gamache, Gerry, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Heino, Jacques, Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kneeland, Kontos, Labrecque, LaFountain, Lane, Lemont, Libby JL; Lindahl, Look, Lovett, Lumbr, Madore, Marshall, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nass, Nickerson, O'Gara, Ott, Peavey, Pendleton, Perkins, Plowman, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Richardson, Ricker, Robichaud, Rosebush, Rotondi, Rowe, Savage, Saxl, J.; Shiah, Sirois, Spear, Stedman, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Truman, Tufts, Tuttle, Tyler, Underwood, Volenik, Waterhouse, Watson, Wheeler, Whitcomb, Winglass, Winn, Winsor, The Speaker.

NAY - Adams, Ahearne, Benedikt, Buck, Chartrand, Chase, Etnier, Gates, Green, Hatch, Heeschen, Hichborn, Johnson, Jones, K.; Kilkelly, Layton,

Lemke, Libby JD; Luther, Marvin, O'Neal, Pinkham, Samson, Saxl, M.; Simoneau.

ABSENT - Dexter, Kerr, Lemaire, Paul, Poirier, Vigue, Yackobitz.

Yes, 119; No, 25; Absent, 7; Excused, 0.

119 having voted in the affirmative and 25 voted in the negative, with 7 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

Senate Divided Report - Committee on Natural Resources - (11) Members "Ought to Pass" as amended by Committee Amendment "A" (S-275) - (2) Members "Ought Not to Pass" on Bill "An Act to Ensure Consistency Between State and Federal Environmental Requirements" (S.P. 347) (L.D. 952) which was tabled by Representative GOULD of Greenville pending his motion to accept the Majority "Ought to Pass" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Shiah.

Representative SHIAH: Mr. Speaker, Ladies and Gentlemen of the House: This bill L.D. 952 was subject to a fair amount of discussion in our committee and we actually set up a subcommittee to work on it. I believe the original intent of the bill I did not support, nor do I support the amended version.

I won't be real long on this, but basically what it does is the amendment would allow up to five or more people to petition the DEP to stay a rule that is viewed as more stringent than a federal environmental rule. I am concerned that this could lead us down the wrong path or letting the federal government set to much of Maine's environmental policy.

Personally, we don't know what Washington is going to do with environmental laws. The way they just did a major rewrite of the Clean Water Act in the House, which I certainly don't support. It is my concern that if we go down this path of trying to tie all our regulations to what is going on in Washington, I feel Maine people know best about what to do in Maine. So that is why I am opposing this "Ought to Pass" on this L.D. I would urge you to do so also. Thank you.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I just wanted to point out that this bill tries and does make consistency between state law and federal law much easier to deal with. It doesn't say that we cannot be more stringent than the federal law. It just says that we will not be more stringent by rule. It will be more stringent because the elected representatives of the people make that decision that we will be more stringent. I repeat, it isn't that we can't be more stringent, it is just that we, the elected representatives, will make sure it is more stringent and not a bureaucrat by rule.

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

A vote of the House was taken. 74 voted in favor of the same and 22 against, subsequently, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-275) was read by the Clerk and adopted. The Bill

was assigned for second reading Tuesday, June 20, 1995.

#### UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, June 16, 1995, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

An Act to Amend the Real Estate Laws Concerning Validation of Defects (H.P. 1059) (L.D. 1488)

TABLED - June 13, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Passage to be Enacted.

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

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

TABLED - June 13, 1995 (Till Later Today) by Representative JACQUES of Waterville.

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

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

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

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

HOUSE DIVIDED REPORT - Majority (10) "Ought Not to Pass" - Minority (3) "Ought to Pass" as amended by Committee Amendment "A" (H-426) - Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine Creating a Unicameral Legislature (H.P. 863) (L.D. 1194)

TABLED - June 14, 1995 by Representative DAGGETT of Augusta.

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

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: I urge you to vote against the pending motion so we can go on to vote for creation of an unicameral legislature, a one house legislature, of 101 members to go into effect after the next reapportionment. If you believe it is the time to cut the size of the legislature, this is the bill. It reduces this legislature from 186, one of the largest in the country, to 101. Whatever else, this is not a feel good bill, my friends, but it is necessary.

It would create a legislature more in accord with our population and our geography. It makes no sense, absolutely no sense, to have a bigger legislature

than states with 15 times our population. This is my third term in this legislature and nothing, absolutely nothing in my experience shows that having such a bloated legislature serves any useful purpose.

Just as some of us need size reduction, so does the state house. L.D. 1194 as amended will do more however, than cut size. It will reform the way we do the people's business, big time. Just look around you. It is the middle of June and major business is unfinished. We are on the edge of shut down again. Is this Maine on the move? Is this the best we can do? This is my third term, as I said, and nothing has changed. Politics as usual, despite the expectations of the voters. Politics as usual despite the high hopes of newcomers for change. We all know it is time for change, but new people and minor tinkering isn't going to do it. We have got to get under the hood. We have got to do basic change.

L.D. 1194 by creating a one house legislature represents major structural substantive reform of the system. It is the only way to go. This is the biggest single reform bill you will have the opportunity to vote on this session. It is the big Kahuna. It is no gimmick. Indeed, I believe it is the ultimate antigimmick legislation, because my friends, unicameralism has been around a long time. It has an historical record and that record shows that it deals with basic problems and spells the reasons we are where we are today.

Unicameral legislatures are more focused. They have shorter sessions. They produce fewer bills. One house legislatures eliminate the bicameral games between the two houses, we are all too familiar with. Those games serve no purpose except to waste time, to waste money, to give the lobbyists an extra edge and to kill good bills. It is time to end the games and this will do it. One house legislatures eliminate the built in opportunity for gridlock in bicameral bodies and we all know that that opportunity is usually made reality. Unicameralism is antigradlock, big time.

If you really want a more efficient legislature and a more cost-effective system, at least 3 million dollars per, and if you really want a more accountable legislature, you should seriously consider this bill, vote for it and give the citizens a chance and an opportunity in referendum to vote for real legislative reform. It is an opportunity the people deserve.

Finally, if nothing else, do not consider this some professor's bill straight from the ivory tower. Let me tell you after 20 years of teaching government, if I was coming at you as an academic, I would talk the conventional wisdom for 20 years about bicameralism, where the system needs checks and balances. It produces better legislation, etc., etc., etc., as the King of Siam said. Well, that was before I came to the legislature. My practical experience as a legislator tells me that conventional wisdom is wrong. It is dead wrong. The checks and balances are a fable and this definitely isn't Maine on the move. It is time to reject politics as usual, but my friends, the time is running out.

I know it is hot in here, but it is going to be a lot hotter out there if we don't start to show the people of Maine that we have a willingness to set our own house in order. Let's start today. I urge you to vote against the status quo pending motion.

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



Representative DAGGETT: Mr. Speaker, Men and Women of the House: I would certainly be glad to agree with Representative Lemke that the bill that is in front of you would provide major structural change. However, I would like to let you know that when this bill was heard in front of the committee, there was no testimony other than the sponsor and cosponsors. There was no compelling evidence given that this would truly make things better. There were no statistics or facts given to show that it would be better.

I would submit to you that there are many, many ways that a legislature could be organized. Absent any compelling reasons to change, I can't imagine why we would do it. The suggestion was made that it is more cost effective. I would just submit to you that the one unicameral legislature in the United States, which is also a citizen, part-time legislature costs more than ours does. The cost is in staffing. In having a professional staff for the legislature, not in members' salaries. You would still need to have professional staff.

I would also ask that, if this is that terrific a mechanism for passing legislation, I wonder why Nebraska isn't considered the number one state in the union?

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

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

The SPEAKER: The Representative may pose his question.

Representative MURPHY: I see all kinds of statistics and comparisons here. I wonder if anyone did a comparison on the cost of this legislature and every other legislature in this country per capita person in the state? What do we cost each and every person in this state as compared with the other states?

The SPEAKER: The Representative from Berwick, Representative Murphy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Men and Women of the House: When you are comparing costs of the legislature, you have to remember that there are certain economies of scale that a state with a very small population has certain basic services that have to be provided. A state with a large population has those same kinds of services. In order to make a very good comparison of cost, it is very difficult to do it by population. In the same way that we have school systems that are a certain size, they can deliver certain kinds of services and do things. It is very hard to compare the per capita costs of the legislature and have that be any indication of the kind of work that that body does.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I have several comments I would like to make, but I would like to respond to the previous question as well. In spite of the fact and these figures are about two years old now on the Nebraska legislature and I realize the sponsor is going to tell you that he is not copying this after the Nebraska legislature, but, in fact, it is still the only unicameral system in the country, so if it is not being copied after it as unicameral, I am not

sure what it is being copied after, unless we are talking about city councils and that is kind of not very much in tune with what we are talking about.

In fact, the governmental spending in the State of Nebraska is considerably more per capita than it is in the State of Maine. In Nebraska they spend per capita \$3,813 to run their state legislature as opposed to Maine's \$3,300. On the other hand, the debt in Nebraska per capita is over \$1,000 more per capita than it is in the State of Maine.

In truth and in fact, the cost of running the Nebraska legislature has grown dramatically every single year. To give you an example, just four years ago in 1991 or whatever it was, the Nebraska state budget for its legislature was 10 million dollars, a little over 10 million dollars. In the four years since, its budget for this year, the same year we are in, is 14 million, a little over 14 million, in just that 3 1/2 year period. Our budget is a little over 1 million dollars less than the budget in Nebraska. They have 49 members in their legislature. We have 186.

I am not very good at math, ladies and gentlemen, but when they start talking about it being more economical, even I, who am a nonmath person would have a hard time understanding how for 49 legislators in Nebraska their budget in 1995 is over 14 million dollars and ours is around 13 million. It is a little over a million dollars less than in Nebraska for 186 legislators. As far as representation, I know and you know and even the freshmen legislators here who tell me on a regular basis about the paperwork, the constituent calls, phone calls, letters and the work that you have to do to respond to the demands of the public. It doesn't get any less. It gets worse. We are 186.

Every person in this state has two people that represent him or her in the Maine legislature, one in the Senate and one in the House. You go to 101 members in one body, then they have one representative. I have said this before and I will say it again, the City of Westbrook, where I live, could easily be represented by one representative. Obviously I would hope that that would be me. It could be done by one representative. The City of Portland could probably go from eight to five. The City of South Portland could probably go from this number down to two or three. It is not too difficult to do in southern Maine, but I submit to you that I am not a northern legislator, I represent my district, but I also represent the State of Maine.

When you begin moving north of Bangor, ladies and gentlemen of the House, I ask you what kind of citizen representation are you going to be able to give, if you are spreading out the representatives, which is already in part of our state by dropping our numbers down to 101? This is not a feel good bill. The representative from District 29 is correct. I hope you will believe in what he says, this is not a feel good bill. It might make you feel good temporarily, but not for very long when you have to justify down the road. Our budget will increase.

I spent the better part of a day in Nebraska with one of the Senators who still serve in the Nebraska legislature, Senator Cortison. I spent a better part of a day with him in Nebraska. He happens to be the chair of his committee. Regardless, if you are a chair or not, every single Senator has his or her own private office, private office. Each Senator has his or her own receptionist in that office. If he or she



happens to be a chairman of a committee, each chairman of the committee besides the other two rooms I just told you about, has another office for his or her legal analyst. Right there, you don't have to call, make an appointment or go over anybody, the legal analyst is right there.

Nebraska's budget has gone up year after year after year. There are several other points that I would like to make, if I may. A comment was just made about the fact that we are near shut down. I wish we would not continue to say that ladies and gentlemen. I believe that we are going to be able to prevent that kind of thing from happening. Why are people still talking and scaring employees and people all over this state by continually harping on "we are almost on a shut down." Let's get our job done and we won't worry about a shut down.

The issue that I want to make to you, ladies and gentlemen of the House, is that our differences, whether it be on the budget or health care or whatever it might be including this one, has nothing to do with the fact that we are a two house legislature. What it has to do with is that we have honest differences of opinion, whether it happens to be between Republicans and Democrats or northern and southern. We have reasonable differences of opinions about what is right and what is wrong.

To prove that, I have said that so many times, I wish the press would cover it a little bit more often, is that we have our battles on the House floor. Look at the people from all parties and all districts of the state who spend time with each other, share each others problems, go out to eat together and work together on a lot of other issues, it has nothing to do with a two House legislature. It has to do with differences of opinions on a particular issue. This is not in the best interest of the voters of the State of Maine. This is not one of the issues that you heard.

I would defy, maybe defy is a strong word, I would really ask sincerely, how many of you heard your voters talking to you about cutting spending and those kinds of things, told you that what they wanted you to do is go to a unicameral system, a one house body. Do they really understand what they are talking about, when you are talking about a unicameral system.

A couple of other comments, this is from the Omaha World Herald it is now, I grant you, three years old. Dick Hermon, the editorial page editor of the Lincoln Journal and a state house observer since the early 1960s said, "The changes that I see include more young members, more ambitious members, a greater reliance on staff, larger staff, a move toward case working instead of public policy issues. They become small congressmen. They are far less citizen legislators than they were 15 or 20 years ago. They are much more professionalized and much more attuned to the explosive potential of television." Doug, who is now in the Congress of the United States was in the Nebraska legislature for many years, I will quote him. "The unicameral is also very subject to being influenced by outside interests. It is a happy hunting ground for lobbyists, because you only have one house and only one set of informal leadership. It is noticeably more influenced by lobbying interests than any other legislature."

Ladies and gentlemen of the House, I know many of you have signed onto this bill and I have talked to many of you since that time and asked you, why, and

we discussed it. I hope I have been able to make you understand that there is a lot more to this than a reform issue. The facts are there. I am not making them up. The Nebraska legislative budget has grown by leaps and bounds, even though they have only 49 members. Their state is about the same size as ours. We talked about the influence, someone mentioned that it would be the same for all of the states.

This is also from the Lincoln Star Journal and is by Don Walton. "As Nebraska's population concentrates more and more in and around the state's two largest cities, the balance of power in the unicameral government slowly, but inevitability moves eastward from rural to urban Nebraska. Meanwhile the rural town continues to decline with little real say as to their fate and that is one of the issues." The more rural parts of our state will not get the kind of representation that we all hope they are getting now.

I know many of you wish that you had more time to spend. You wish you had your own personal secretary that could respond faster to some of the calls that you get on your speaker and the notes you get. We all feel that way. I know we do. We all panic over that. We all get frustrated. We all apologize. Every one of you have heard your fellow legislators in the phone room explaining and apologizing to someone they finally get a hold of. "I am sorry I didn't get back to you last week." "I am sorry it has been so long." Most of them understand that, because this is a citizen legislature. We don't have a professional staff. We have a wonderfully professional staff, but I mean per person.

Those are the things that you really must consider, ladies and gentlemen of the House. I am very, very concerned about it. I have visited with it. Nebraska may be perfect for Nebraska. People sometimes ask me why Westbrook, which I am so proud of, still has the only strong Mayor/Council form of government in the state. We are the only one left that the Mayor has the same powers as the Mayor of any major city in the state, including line-item veto. The only city left. Why is that? Well for Westbrook it works fine. Westbrook likes electing its Mayor. They like having it the way it is.

Nebraska must like what they are doing. They are the only state that does. No other state has taken a vote on it. I sincerely hope and pray that you will not send this out to the voters. We haven't done any research on it. There is no study on it. You are hearing more about it than the average citizen of the State of Maine and we want to send this out to referendum? I don't think so. I ask you, ladies and gentlemen of the House, to accept the Majority "Ought Not to Pass" Report. Thank you.

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

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House: Someone suggested a few moments ago there weren't any compelling reasons why we should consider this. I think if you look at the date and understand that we are supposed to adjourn in two days, we don't have a budget and most of the major legislation that has any kind of controversy at all hasn't come before us. I think that is a compelling reason. I think if you look at the condition of state government today and look at the financial condition it is in and the financial condition that it has been for the last decade, that

is a compelling reason for us to say that this system that we have in the legislature simply doesn't work.

I know we don't like to compare ourselves to other states, but if you look at the blue sheet that was passed out to you, you will find that there are states with much larger populations than ours that have much smaller legislatures. If you look at the yellow sheet you will find that Maine is ranked number 38 in population, yet in legislative size it is ranked number 10. My feeling is that if other states can operate with fewer people in their legislature, Maine can do that as well.

Someone raised the concern about rural representation. I understand that it is a concern. If you look at the way the legislative districts are configured, you will find that in every rural legislative district there is a much smaller legislative district that is contiguous to it. When we talk about expanding the size of legislative district to implement this proposal, we are not talking about expanding the geographic size by one-third, we are talking about expanding it much smaller.

The final reason is that we thought about the checks and balances between this body and the other body. When you read the text books and when you talk to people they say that we need the other body, because it is a smaller body and there are more deliberatives and therefore, the decisions made in this body may have been made in haste, but certainly with a smaller body to examine the action that we have taken will ensure that legislation that is passed is good for the people of Maine. That sounds good in theory, but I can tell you as a freshman, after having seen this body operate and seen the other body operate, I could suggest to you that the decisions made in this body are sometimes much better than the decisions made in the other body. I would urge you to vote for the unicameral system. Thank you.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: The hour is late and it is hot as can be in here. I will definitely be brief. I do want to respond to the question that was posed earlier on the floor. I do want to say that the good Representative from Westbrook made a number of points, which as far as I am concerned, basically buttress the position I made earlier.

He is making the comparison with Nebraska. He says in Nebraska that the cost of the legislative budget is more. It is. He says that Nebraska is more susceptible to lobbyists. It is. That is precisely the point. I am not attempting and many of the other cosponsors of this bill are not attempting to recreate Nebraska. The only thing that this legislation has in common with Nebraska is it is unicameral. Nebraska has 49 members, that is too small. I don't have the exact figures, but I can tell you that is what translates into the much more costly legislative budget. As far as lobbyists, 49 members are more susceptible, but a legislature with a single house of 101 members is going to be much less susceptible to the influence of lobbyists than a bicameral legislature. When we all know lobbyists can focus their activities on what we refer to as the other body of 35 members, where 18 votes are sufficient to kill anything.

Again, if I were presenting to you the Nebraska model, I would probably accept the arguments that the good Representative from Westbrook put forward, but this Representative from Westbrook is putting forward a Maine unicameral legislature, not Nebraska. Wonderful state, you can see a long ways, but I am not trying to recreate Nebraska. While I have the floor, the question was posed, what can be possibly the compelling reason for change? I will repeat what I said an half hour ago. Since then we have created a unicameral body in here if I count heads. An half hour ago I said, "Look around you, look at the situation we are in. Can you seriously say that this is the best we can do? I don't think you can."

The people out there may not be saying specifically they want unicameral or anything else, but they are saying loud and clear that they want a smaller legislature and they want us to reform the way we are doing the people's business. I read in the paper where one politician said that he had heard that people were telling him to cut taxes. What I have been hearing from my people is cut the crap! Quite frankly, I think this is a major way to move in that direction.

One note about Westbrook. Westbrook does not have today a bicameral council. I am sure the former Mayor would have nightmares about that, as well, if we recreated that. We had bicameral bodies on the municipal level, but we wisely got rid of them by the early 20th century.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I think it has been made very clear to us today by the good Representative from Westbrook, Representative O'Gara that this would be a very costly legislature if we put in a unicameral legislature. I, for one, really believe in checks and balances in our government. I feel very concerned that maybe we are doing away with a lot of our checks and balances in the polls. The checks and balances we had there to keep our voters honest. I think there are many things that we are doing away with. I think that is a dangerous trend that we are going to. I would hope that you would support the motion on the floor. Thank you.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I have listened to this debate for three terms. It is the same. Stop and think of your own area before you vote. The number of people coming here, yes, there will be fewer of them. It will not be me. It will not be many of the rest of us who have been here before those who came in 1987.

This matter deserves some very serious consideration. When you look back at your own area, by counties, Maine is primarily a rural state. In this plan the rural areas will not be represented to the capacity that they are now. Many of the smaller towns will be incorporated into the larger towns. Many of them will not be able to be elected if they are part of the larger towns. Will they have the same representation that understands their needs? I think not. I ask you to consider all of the things that you have heard. Representative O'Gara from Westbrook has laid it out very well for you. It is a serious matter.

You will be having to deal with more expense as far as staff is concerned. This is the stuff we have been hearing here. It is too costly for people, but will we get the same quality of legislation? Will it be debated as thoroughly as it is being now? Yes, it takes time, but at least we get right down to the root of the issue and we do the very best we can, trying to bring out all the points that are needed to make wise decisions. I hope you will vote against this unicameral legislature. Thank you.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Benedikt.

Representative BENEDIKT: Mr. Speaker, Ladies and Gentlemen of the House: I do want to say that I support this legislation and that I hope you have read the article that was circulated with my thoughts. I do want to comment on the concerns about representation. I think when we compare Nebraska, we are unfortunately talking about that 49 person legislature which causes an excess load on the legislature and results in great staff needs. It is possible to create a unicameral legislature that doesn't have that problem and does not cause that increase in staff and therefore, maintains a reasonable cost. Without being repetitive, I do want to say that the voters in my district do support the idea of a smaller government and a less cumbersome government. They have told me that many times. Thank you.

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

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

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

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

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

#### ROLL CALL NO. 190

YEA - Aikman, Ault, Bigl, Birney, Bouffard, Brennan, Cameron, Carleton, Chartrand, Chick, Clukey, Cross, Daggett, Damren, Davidson, DiPietro, Donnelly, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gieringer, Gooley, Green, Greenlaw, Guerrette, Hartnett, Heino, Jacques, Johnson, Jones, S.; Joseph, Joy, Joyner, Keane, Kneeland, Kontos, Labrecque, LaFountain, Lane, Lemaire, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbr, Madore, Marshall, Marvin, Mayo, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nass, Nickerson, O'Gara, Ott, Peavey, Perkins, Ploverman, Reed, G.; Reed, W.; Ricker, Robichaud, Rosebush, Samson, Savage, Saxl, J.; Saxl, M.; Sirois, Spear, Stedman, Stevens, Stone, Strout, Taylor, Thompson, Treat, Tripp, True, Truman, Tufts, Underwood, Vigue, Volenik, Waterhouse, Watson, Wheeler, Whitcomb, Winsor, The Speaker.

NAY - Ahearne, Bailey, Barth, Benedikt, Berry, Buck, Bunker, Campbell, Chase, Chizmar, Clark, Cloutier, Desmond, Gates, Gerry, Gould, Hatch, Heeschen, Hichborn, Jones, K.; Joyce, Kerr, Kilkelly,

Layton, Lemke, Luther, Martin, McAlevey, Nadeau, O'Neal, Pendleton, Pinkham, Poulin, Pouliot, Povich, Rice, Richardson, Rowe, Shiah, Simoneau, Townsend, Tuttle, Tyler, Winglass, Winn.

ABSENT - Adams, Dexter, Paul, Poirier, Rotondi, Yackobitz.

Yes, 100; No, 45; Absent, 6; Excused, 0.

100 having voted in the affirmative and 45 voted in the negative, with 6 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

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

#### COMMUNICATIONS

The following Communication: (S.P. 591)

#### 117TH LEGISLATURE

June 16, 1995

Senator S. Peter Mills  
Representative Sharon Treat  
Chairpersons

Joint Standing Committee on Judiciary  
117th Legislature  
Augusta, Maine 04333

Dear Senator Mills and Representative Treat:

Please be advised that Governor Angus S. King, Jr. has nominated Jon D. Levy of York for appointment as Judge of the Maine District Court.

Pursuant to Title 4, MRSA Section 157, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/Jeffrey H. Butland

President of the Senate

S/Dan A. Gwadosky

Speaker of the House

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

Was read and referred to the Committee on Judiciary in concurrence.

#### REPORTS OF COMMITTEES

##### Ought to Pass as Amended

Representative DORE from the Committee on Taxation on Bill "An Act to Exempt Food Banks from Sales Tax and to Provide a Review Schedule for Sales Tax Exemptions" (H.P. 1116) (L.D. 1561) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-526)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-526) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, June 20, 1995.

#### CONSENT CALENDAR

##### First Day

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

(S.P. 214) (L.D. 556) Bill "An Act Concerning the Participation of Teachers of Adult Education in the Maine State Retirement System" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-278)

(H.P. 314) (L.D. 418) Bill "An Act to Amend the County Budget Approval Process for Cumberland County" Committee on State and Local Government

reporting "Ought to Pass" as amended by Committee Amendment "A" (H-530)

(H.P. 937) (L.D. 1326) Bill "An Act Concerning the Kennebec Water District" Committee on Utilities and Energy reporting "Ought to Pass" as amended by Committee Amendment "A" (H-527)

(H.P. 978) (L.D. 1387) Bill "An Act to Amend the Underground Oil Storage Facilities and Groundwater Protection Laws" Committee on Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-533)

(H.P. 1032) (L.D. 1451) Bill "An Act to Change the Licensing Year for Certain Marine Resource Licenses" Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-528)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, June 20, 1995 under the listing of Second Day.

(S.P. 489) (L.D. 1323) Bill "An Act to Widen the Maine Turnpike" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-282)

On motion of Representative GATES of Rockport was removed from the First Day Consent Calendar.

On further motion of the same Representative, tabled pending acceptance of the Committee Report and later today assigned.

#### BILLS HELD

Bill "An Act to Revise and Add to the Laws Regulating the Practice of Professional Engineering" (S.P. 475) (L.D. 1271)

-House voted to Insist

HELD at the Request of Representative HARTNETT of Freeport

On motion of Representative HARTNETT of Freeport the House voted to reconsider its action whereby the House voted to Insist.

Representative HARTNETT of Freeport moved that the House Recede and Concur.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: I apologize on this hot afternoon for backing up some issues here. However, this morning as I arrived we were taking action on this item and as I dug through the bottom of my piles, I found a note from the bill's sponsor who asked if I might make this motion.

The bill's sponsor is also the sponsor of this amendment. It is (S-281). The only change this makes to the bill, which regards the professional licensing of engineers, is it will apply a cap on their fees of \$200. Also, I think this is an important part in why I am taking your time this afternoon, it would add to the statutes the good Samaritan law, regarding engineers who maybe are pressed into the service of government, be it state, county or local government, in times of emergencies.

Basically, if an engineer has been asked by the Governor or county commissioner, in time of emergency, to lend their skills and expertise they are not being paid for this. That they would be granted immunity from any claims of negligence against them, so long as there actions done on behalf of government are done within 30 days of this state of emergency.

I think it is kind of a common sense good samaritan law, like we have so many others. I know the special engineering people would like to have this on. I thank you for your indulgence this afternoon.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: I would ask you to vote against the Recede and Concur motion. This particular bill that we have before us, L.D. 1271, was voted out of committee with a 12 to 1 report. The 12 did include an amendment which dealt with a change of the dollars from \$0 to not exceed \$200. Really, the only issue in dispute here is this good samaritan clause, which a single member of the committee had taken out.

If you recall this was a report. I move to substitute the bill for the report because there was a mess-up with respect to the Minority and Majority Reports. What we have here is a bill in non-concurrence and we have one member of the committee wanting to add a good samaritan clause. Let me tell you why I think this is not a good idea and why I think the rest of the committee agreed with me. This bill is a bill that was submitted by the Department of Professional and Financial Regulation. The department reviewed that good samaritan clause and did not want it in the bill. They felt that it was inappropriate that if we are going to look to immunity from liability these issues ought to be addressed in a more comprehensive manner. Putting it in a licensing statute is not the place to put it.

More over, we ought to look at it in a more comprehensive fashion. We now have immunity bills from liability with respect to medical practitioners performing emergency services. We don't have them that go much further than that. I would suggest to you that before we start adding good samaritan clauses with any particular occupation, that we ought to look at this with a broad picture. I would further suggest that this is an issue that the Judiciary Committee and not the Committee on Business and Economic Development ought to take up.

Again, I would reiterate that even if you wanted to do this, this is not the place in the statute to put it. The department was opposed to it and 12 members of the committee were opposed to it. I would request that you defeat the pending motion. Thank you.

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

Representative HARTNETT of Freeport 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 pending question before the House is to Recede and Concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 191

YEA - Aikman, Ault, Bailey, Barth, Bigl, Buck, Cameron, Campbell, Carleton, Chick, Clukey, Damren, Donnelly, Dunn, Farnum, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Libby JD;

Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Reed, G.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Taylor, Tufts, Underwood, Waterhouse, Whitcomb, Winglass.

NAY - Ahearne, Benedikt, Berry, Birney, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Cross, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Heesch, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Lemont, Libby JL; Luther, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Poulin, Pouliot, Povich, Reed, W.; Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Stone, Strout, Thompson, Townsend, Treat, Tripp, True, Truman, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, Winn, Winsor, The Speaker.

ABSENT - Adams, Dexter, Hatch, Martin, Paul, Poirier, Rotondi, Yackobitz.

Yes, 61; No, 82; Absent, 8; Excused, 0.

61 having voted in the affirmative and 82 voted in the negative, with 8 being absent, the motion to Recede and Concur did not prevail.

Subsequently, the House voted to Insist.

Resolve, Establishing the Maine Council on Privatization (EMERGENCY) (S.P. 81) (L.D. 169)  
- House voted to Recede and Concur  
HELD at the Request of Representative DAGGETT of Augusta.

Representative DAGGETT of Augusta moved that the House reconsider its action whereby the House voted to Recede and Concur.

On further motion of the same Representative, tabled pending her motion to Reconsider and specially assigned for Tuesday, June 20, 1995.

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

Bill "An Act to Permit a One-time Transfer of Uncommitted Funds for Community Corrections Programs" (EMERGENCY) (H.P. 1095) (L.D. 1539)  
TABLED - June 13, 1995 by Representative CLARK of Millinocket.

PENDING - Passage to be Engrossed.

Representative CLARK of Millinocket presented House Amendment "A" (H-316) which was read by the Clerk.

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

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

The SPEAKER: The Representative may pose his question.

Representative DiPIETRO: Could someone possibly tell us what this bill does or does not do?

The SPEAKER: The Representative from South Portland, Representative DiPietro has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: The amendment I just offered takes the emergency off the bill. This is the correction money from community corrections. If you wait a few minutes for another amendment to be added, it will take care of the people from Cumberland. It should give them about \$99,000. If you can wait a few minutes so we can add another amendment, I think everybody will be happy.

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

Representative DiPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate that. I was wondering what happened to the other amendment. Thank you.

House Amendment "A" (H-316) was adopted.

Representative CLUKEY of Houlton presented House Amendment "C" (H-509) which was read by the Clerk

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

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House: The original bill that came out of the Corrections Committee because of the way it came out of the Corrections Department. It only enabled us to release \$610,800 of that fund. The intent of that committee was to release all of the retained funds which is \$1,094,000 at the end of the fiscal year. What my amendment does is increase the fund from \$610,800 to \$1,094,000. I should add that I passed out a yellow sheet an half hour ago and it gives each county their total amount in that fund. Thank you.

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

Representative TYLER: Mr. Speaker, Men and Women of the House: I want to thank Representative DiPietro for mentioning the other amendment. However, this amendment was worked out this afternoon by Representative Clukey and some others. This is a fair and just situation and gives us all a chance. I urge your support of House Amendment "C." Thank you.

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

Representative BUNKER: Mr. Speaker, Men and Women of the House: I really wasn't running a toll booth back here in the corner on this bill for the last few weeks, but it might have felt that way. This bill is exactly what we wanted to do and I ask you to support Representative Clukey's amendment to this. Thank you.

House Amendment "C" (H-509) was adopted.

On motion of Representative CLARK of Millinocket the House reconsidered its action whereby House Amendment "A" (H-316) was adopted.

On further motion of the same Representative, House Amendment "A" (H-316) was indefinitely postponed.

The Bill was passed to be engrossed as amended by House Amendment "C" (H-509) and sent up for concurrence.

On motion of Representative PEAHEY of Woolwich the House adjourned at 5:30 p.m. until 9:00 a.m., Tuesday, June 20, 1995.