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
64th Legislative Day
Thursday, June 22, 1995

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

Prayer by the Reverend Daryl Lavway, Central Square Baptist Church, Portland.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Communication: (H.C. 225)

Maine State Senate
State House Station 3
Augusta, Maine 04333

June 21, 1995

The Honorable Dan A. Gwadosky
Speaker of the House
117th Legislature
Augusta, Maine 04333

Dear Speaker Gwadosky:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed the following:

Upon the recommendation of the Joint Standing Committee on State and Local Government:

P. Vincent O'Malley of Portland for appointment as a member of the Workers' Compensation Board.

Linda Riddell of South Portland for appointment as a member of the Workers' Compensation Board.

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

Was read and ordered placed on file.

Ought to Pass as Amended

Report of the Committee on **Agriculture, Conservation and Forestry** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-298) on Bill "An Act to Clarify the Animal Welfare Laws and Euthanasia Procedures Performed by Certain Officials" (S.P. 497) (L.D. 1356)

Came from the Senate with the report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-298).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-298) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

Non-Concurrent Matter

Resolve, to Strengthen Fish Hatchery Capacity within the State by Establishing a Partnership between Public and Private Organizations (EMERGENCY) (S.P. 365) (L.D. 991) which was passed to be engrossed as amended by Committee Amendment "A" (S-116) as amended by House Amendment "C" (H-482) thereto in the House on June 16, 1995.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-116) as amended by Senate Amendment "A" (S-301) thereto in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

Bill "An Act to Revise the Somerset County Budget Committee" (H.P. 822) (L.D. 1153) which was passed to be engrossed as amended by Committee Amendment "A" (H-438) in the House on June 14, 1995.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-300) in non-concurrence.

The House voted to Recede and Concur.

COMMUNICATIONS

The following Communication: (H.C. 226)

STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY

June 21, 1995

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Judiciary has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1569 — Resolve, Prohibiting the Maine Court Facilities Authority from Locating Court Facilities upon Certain Property

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. S. Peter Mills — Senate Chair
S/Rep. Sharon Anglin Treat — House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 227)

MAINE TECHNICAL COLLEGE SYSTEM
OFFICE OF THE PRESIDENT
323 STATE STREET
AUGUSTA, MAINE 04330

June 15, 1995

The Honorable Dan A. Gwadosky
Speaker of the House
Maine House of Representatives
117th Maine Legislature
Augusta, Maine 04333

Dear Speaker Gwadosky:

I am pleased to submit to the 117th Maine Legislature copies of the Maine Technical College System Annual Report. This report highlights the accomplishments of the technical colleges over the past year, and our future challenges as we strive to meet the employment needs of Maine businesses and citizens.

We are proud of the contributions of our faculty, administrators and staff in helping provide our students with the tools to succeed in an increasingly competitive economy. We thank the Maine Legislature for its support, which each year enables thousands of Maine people to obtain the education and skills needed to fulfill their personal goals and become productive members of Maine's workforce.

Sincerely,
S/John Fitzsimmons
President

Was read and with accompanying report ordered placed on file.

REPORTS OF COMMITTEES
Ought to Pass as Amended

Representative LABRECQUE from the Committee on **Legal and Veterans Affairs** on Bill "An Act to Strengthen the Governmental Ethics and Campaign Reports and Finances Laws" (H.P. 1029) (L.D. 1444) reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-572)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-572) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

Ought to Pass Pursuant to Joint Order (H.P. 582)

Representative SAXL from the Committee on **State and Local Government** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1995 (EMERGENCY) (H.P. 1135) (L.D. 1579) reporting **"Ought to Pass"** Pursuant to Joint Order (H.P. 582)

Report was read and accepted. The Resolve read once.

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

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

Divided Report

Seven Members of the Committee on Committee on **Marine Resources** on Bill "An Act to Establish a Management Framework for the Lobster Fishery within State Waters" (H.P. 577) (L.D. 782) reporting in Report "A" that the same **"Ought to Pass"** as amended by Committee Amendment "A" (H-570).

Signed:

Senators:	PINGREE of Knox
	GOLDTHWAIT of Hancock
Representatives:	BIGL of Bucksport
	ETNIER of Harpswell
	RICE of South Bristol
	VOLENIK of Sedgwick
	BENEDIKT of Brunswick

Five Members of the same Committee on same Bill reporting in Report "B" that the same **"Ought Not to Pass"**

Signed:

Representatives:	CLOUTIER of South Portland
	ADAMS of Portland
	LAYTON of Cherryfield
	LOOK of Jonesboro
	PINKHAM of Lamoine

One Member of the same Committee on same Bill reporting in Report "C" that the same **"Ought to Pass"** as amended by Committee Amendment "B" (H-571)

Signed:

Senator:	BUTLAND of Cumberland

Was read.

Representative CLOUTIER of South Portland moved that the House accept Report "B" **"Ought Not to Pass"**.

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

Divided Report

Majority Report of the Committee on **Appropriations and Financial Affairs** reporting **"Ought Not to Pass"** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Future Budget Fund (H.P. 760) (L.D. 1034)

Signed:

Senator:	BERUBE of Androscoggin
Representatives:	KERR of Old Orchard Beach
	POULIOT of Lewiston
	MORRISON of Bangor
	TOWNSEND of Portland
	DiPIETRO of South Portland
	JOSEPH of Waterville

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-564) on same RESOLUTION.

Signed:

Senators:	BEGLEY of Lincoln
	HANLEY of Oxford
Representatives:	DONNELLY of Presque Isle
	SIMONEAU of Thomaston
	AIKMAN of Poland
	OTT of York

Was read.

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

Divided Report

Majority Report of the Committee on **Natural Resources** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-552) on Bill "An Act to Amend Certain Laws Affecting the Department of Environmental Protection" (EMERGENCY) (H.P. 989) (L.D. 1397)

Signed:

Senators:	LORD of York
	RUHLIN of Penobscot
Representatives:	GOULD of Greenville
	POULIN of Oakland
	SAXL of Bangor
	BERRY of Livermore
	MERES of Norridgewock
	SHIAH of Bowdoinham
	GREENLAW of Standish
	DAMREN of Belgrade
	NICKERSON of Turner
	MARSHALL of Eliot

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "B" (H-553) on same Bill.

Signed:

Senator:	HATHAWAY of York

Was read.

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

The Bill was read once. Committee Amendment "A" (H-552) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

Divided Report

Majority Report of the Committee on **Marine Resources** reporting **"Ought Not to Pass"** on Bill "An

Act to Preserve Fishing Stocks" (H.P. 1045) (L.D. 1464)

Signed:

Senator: BUTLAND of Cumberland

Representatives: BIGL of Bucksport
LAYTON of Cherryfield
PINKHAM of Lamoine
RICE of South Bristol

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-569) on same Bill.

Signed:

Representatives: BENEDIKT of Brunswick
ETNIER of Harpswell
VOLENIK of Sedgwick

Representative LOOK of Jonesboro - of the House - abstaining.

Was read.

On motion of Representative CLOUTIER of South Portland, tabled pending acceptance of either Report and later today assigned.

Divided Report

Majority Report of the Committee on **Taxation** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-562) on Bill "An Act to Encourage Capital Investment in Maine" (H.P. 1048) (L.D. 1467) (Governor's Bill)

Signed:

Senators: HATHAWAY of York
FERGUSON of Oxford
CAREY of Kennebec

Representatives: TRIPP of Topsham
TUTTLE of Sanford
KEANE of Old Town
MURPHY of Berwick
GREEN of Monmouth
DORE of Auburn
SPEAR of Nobleboro
DUNN of Gray
REED of Falmouth

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

Signed:

Representative: RICHARDSON of Portland

Was read.

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

Divided Report

Majority Report of the Committee on **Human Resources** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-556) on Bill "An Act to Clarify Terms and Increase Effectiveness of the Lead Poisoning Control Act" (H.P. 1069) (L.D. 1504)

Signed:

Senators: PENDEXTER of Cumberland
BENOIT of Franklin
PINGREE of Knox

Representatives: FITZPATRICK of Durham
JOHNSON of South Portland
JOYNER of Hollis
MARVIN of Cape Elizabeth
ETNIER of Harpswell
MITCHELL of Portland
WINGLASS of Auburn
LOVETT of Scarborough

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

Signed:

Representatives: SHIAH of Bowdoinham
JONES of Bar Harbor

Was read.

Representative FITZPATRICK of Durham 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"** Report and later today assigned.

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

CONSENT CALENDAR
First Day

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

(S.P. 563) (L.D. 1531) Bill "An Act to Clarify Early Retirement Incentives" Committee on **Labor** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-297)

(H.P. 1058) (L.D. 1487) Bill "An Act Relating to Criminal Forfeitures" Committee on **Criminal Justice** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-568)

(H.P. 1127) (L.D. 1572) Bill "An Act to Amend the Charter of the Corinna Water District" Committee on **Utilities and Energy** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-579)

There being no objections, under suspension of the rules, Second Day Consent calendar notification was given. The Senate Paper was passed to be engrossed as amended in concurrence and the House Papers were passed to be engrossed as amended and sent up for concurrence.

CONSENT CALENDAR
Second Day

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

(H.P. 1084) (L.D. 1526) Bill "An Act to Allow Involuntary Commitments at Hospitals under Contract with the Department of Mental Health and Mental Retardation" (Governor's Bill) (C. "A" H-563)

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

BILLS IN THE SECOND READING
As Amended

Bill "An Act to Require Insurers to Reimburse Insureds with Inborn Errors of Metabolism" (EMERGENCY) (H.P. 401) (L.D. 536) (C. "A" H-468)

Bill "An Act to Enhance Recycling by Ensuring Raw Materials for Businesses that Recycle and to Fund Household Hazardous Waste Collection Programs" (H.P. 805) (L.D. 1122) (C. "A" H-550)

Bill "An Act to Widen the Maine Turnpike" (S.P. 489) (L.D. 1323) (C. "A" S-282)

Bill "An Act to Protect Traditional Uses in the North Woods" (H.P. 1104) (L.D. 1551) (H. "A" H-548 to C. "A" H-519)

Bill "An Act to Appropriate Funds for the Building Alternatives Program" (EMERGENCY) (H.P. 1120) (L.D. 1564) (C. "A" H-529)

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

Bill "An Act to Ensure a Sustainable Urchin Fishery in the State and to Promote Competition in the Maine Sea Urchin Processing Industry" (S.P. 337) (L.D. 918) (C. "A" S-293)

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

On motion of Representative LOOK of Jonesboro was set aside.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (S-293) was adopted.

The same Representative presented House Amendment "A" (H-582) to Committee Amendment "A" (S-293) which was read by the Clerk.

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

Representative LOOK: Mr. Speaker, Men and Women of the House: Just for a moment of explanation about what this will do. In the amendment as presented to us, this will reinstate the Sunday and Wednesday dragging that was eliminated in the amendment. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sedgwick, Representative Volenik.

Representative VOLENIK: Mr. Speaker, Men and Women of the House: This amendment basically guts a lot of the bill that we just passed yesterday. By striking out the Wednesday and Sunday closings in the months of September, October, March and April, this means that 32 more days will be open to the fishing and harvesting of sea urchins.

We worked long and hard to get this bill together. The bill is supported by the majority of the harvesters, the majority of the transporters, processors and dealers and by putting this amendment in and allowing 32 more days of fishing, we will be betraying these people. I urge you to vote against this and I ask for a division. Thank you.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: The reason that I am proposing to reinstate these days is a marketing reason. Given the fact that fishing days are very unpredictable and given the fact that getting this product to the market in the Far East takes time and therefore, I feel that it is necessary to provide these days so that they can gauge their fishing and be sure that this product goes to the market in a fresh condition. Thank you.

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

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: I'm somewhat surprised this morning to find that the good Representative from Jonesboro is putting in an amendment on a bill that she so highly supported last night. Representative Volenik is 100 percent right, 32 more fishing days are not needed. Our fishermen can make a reasonable living without that. This only placates to the processors. Remember what I said last night, when the resource is gone the processors pick up and go somewhere else to some other resource, and our fishermen stay here in Maine, jobless. Thank you.

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

Representative LEMONT: Mr. Speaker, Ladies and Gentlemen of the House: I'd like to compliment the good Representative from Jonesboro, to recognize the problem with this legislation and addressing it.

This bill in no way is gutted, it is still a good piece of legislation. All it addresses is what the good Representative said, is the 32 days that are arbitrarily picked in the months of September, October, March and April. It is a conservation measure and if we do need to expand the season, the days should piggy-back over the already the closed season and expand the closed season. To limit the harvesters to the days they can fish is a safety issue and is a monetary issue. It makes it extremely hard for them to work in their industry.

My being a lobsterman, I can explain to you that this is not a nine to five job. It's extremely hard to find the days you can go. September and October in my area are the hurricane season and you can loose two or three consecutive days and you know as well as I do, Wednesday, the closure day will be the only good day you can get out and fish. March and April, in my area, is nothing more than a continuation of winter, we no longer have a spring down there. Once again it puts a hardship on the harvesters and the industry. Thank you very much.

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

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: Four years ago when we initiated these regulations, we heard loud and clear from the processors, that you can not have a closed season, we will loose our markets. We will loose our markets. We need to have a continuous resource. That has proven false. We have had closed seasons, we've had restrictions, and the markets have not been affected. Thank you.

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

Representative BIGL: Mr. Speaker, Ladies and Gentlemen of the House: We did go through a lot of detail yesterday, and I just want to recall to your attention why this bill was brought to us to begin with. The urchin industry brought it to us because they were very concerned about the resource out there. They wanted to continue conserving the resource.

The harvesters, themselves, have a real concern for that, because they are not only looking for their job now, they're looking for their jobs for the long term. You also heard that. Now you also heard, it will be taking out 32 days arbitrarily, that was not done arbitrarily, that was done by listening to the harvesters, listening to the processors.

Now you also know, yesterday, that you heard some processors that said basically we want to do it all the time and you also heard from some of them that said they're out to destroy the fishery. Those that said they were out to destroy the fishery are in back of the present plan, so I would like to have you vote against the amendment. Thank you.

The SPEAKER: The Chair recognizes the Representative from South Crystal, Representative Rice.

Representative RICE: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to defeat the pending motion. Nothing has changed since yesterday, you passed this bill by a 50 vote margin yesterday.

The Chair ordered a division on adoption of House Amendment "A" (H-582) to Committee Amendment "A" (S-293).

Representative VOLENIK of Sedgwick requested a roll call on adoption of House Amendment "A" (H-582) to Committee Amendment "A" (S-293).

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 pending question before the House is adoption of House Amendment "A" to Committee Amendment "A". All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 213

YEA - Aikman, Bailey, Benedikt, Birney, Bouffard, Buck, Bunker, Cameron, Campbell, Carleton, Chick, Cloutier, Clukey, Dexter, DiPietro, Donnelly, Driscoll, Dunn, Farnum, Fisher, Gamache, Gieringer, Greenlaw, Guerrette, Hartnett, Hatch, Hichborn, Jacques, Jones, K.; Jones, S.; Joseph, Joy, Joyner, Keane, Kerr, LaFountain, Lane, Layton, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Martin, Marvin, McElroy, Meres, Mitchell EH; Mitchell JE; Murphy, Nass, Nickerson, Ott, Paul, Peavey, Perkins, Pinkham, Plowman, Poulin, Pouliot, Povich, Reed, G.; Ricker, Robichaud, Rosebush, Rotondi, Saxl, M.; Stone, Taylor, Thompson, Tripp, True, Truman, Tufts, Tuttle, Waterhouse, Wheeler, Winglass, Winsor.

NAY - Adams, Ahearne, Ault, Barth, Berry, Bigl, Brennan, Chartrand, Chase, Chizmar, Clark, Cross, Daggett, Damren, Davidson, Desmond, Dore, Etnier, Fitzpatrick, Gates, Gerry, Gooley, Gould, Green, Heeschen, Heino, Johnson, Kilkelly, Kontos, Labrecque, Lemaire, Luther, Mayo, McAlevey, Morrison, O'Gara, O'Neal, Pendleton, Poirier, Reed, W.; Rice, Richardson, Rowe, Samson, Savage, Shiah, Simoneau, Sirois, Spear, Stedman, Stevens, Strout, Townsend, Treat, Tyler, Underwood, Volenik, Watson, Whitcomb, Winn.

ABSENT - Joyce, Kneeland, Nadeau, Saxl, J.; Vigue, Yackobitz, The Speaker.

Yes, 84; No, 60; Absent, 7; Excused, 0.

84 having voted in the affirmative and 60 voted in the negative, with 7 being absent, House Amendment "A" (H-582) to Committee Amendment "A" (S-293) was adopted.

Committee Amendment "A" (S-293) as amended by House Amendment "A" (H-582) thereto was adopted. The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-293) as amended by House Amendment "A" (H-582) thereto in non-concurrence and sent up for concurrence.

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

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

House Divided Report - Committee on **Human Resources** - (11) Members **"Ought to Pass"** as amended by Committee Amendment "A" (H-556) - (2) Members **"Ought Not to Pass"** on Bill "An Act to Clarify Terms and Increase Effectiveness of the Lead Poisoning Control Act" (H.P. 1069) (L.D. 1504) which was tabled by Representative FITZPATRICK of Durham pending his motion 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" (H-556) was read by the Clerk and adopted.

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

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

House Divided Report - Committee on **Marine Resources** - (5) Members **"Ought Not to Pass"** - (3) Members **"Ought to Pass"** as amended by Committee Amendment "A" (H-569) on Bill "An Act to Preserve Fishing Stocks" (H.P. 1045) (L.D. 1464) which was tabled by Representative CLOUTIER of South Portland pending acceptance of either Report.

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

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

Representative CLOUTIER: Mr. Speaker, Men and Women of the House: There will be others speaking on this particular issue, what we are basically doing here is we're moving this bill out of committee so we could just speak about the 12-mile limit. That's the reason why the bill came out of committee the way it did. There is a fish hatchery note that we could only attach to this bill that Representative Etnier will be moving on, but we need the fish hatchery amendment on this bill so he will take care of that and Representative Saxl who is the sponsor of this legislation will be speaking about the 12-mile limit. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sedgwick, Representative Volenik.

Representative VOLENIK: Mr. Speaker, Men and Women of the House: I urge you to vote against the "Ought Not to Pass" Report so we can move on to the "Ought to Pass" Report.

I would like to tell you why. There are two parts to this bill, one has a large fiscal note, $800,000 and the other has a small fiscal note, both parts are important to the future of Maine.

First, the small fiscal note, the ground fish hatchery fund has $13,000 remaining, which will be lost July 30, 1995 if we don't extend the expiration date to July 30, 1996. This fund was created through a one time $10 surcharge on commercial fishing licenses in 1994. The fund is used to determine the feasibility of producing hatchery raised ground fish

in Maine and determine the need for those hatcheries, and the methods for revitalizing local schools of ground fish and the tendency of ground fish to return to their breeding areas. The study commission has found that raising ground fish in a hatchery is a practical undertaking, has positive economic impact for Maine's future.

The Department of Marine Resources wants to continue this study to see whether hatchery-raised stocks can make it to the market. The money is already there, $13,000 will be used to match federal funds for the Swan's Island hatchery project. If we don't extend the date, these federal funds will be lost.

The second issue is extending Maine's jurisdiction from 3 miles to 12 miles off shore. Draggers are sweeping the ocean into our current 3 mile state boundary. They're sucking up lobster and anything else in their paths, like giant vacuum cleaners. Extending to 12 miles would enable Maine, which has good marine laws, including the v-notching of females, maximum size limits, to better protect our resources. The movement to extend has had great support in the fishing community, especially lobstermen, but that support is weakening as complex issues strike fear into shrimpers, draggers, and recreational fishermen among others. They wonder how their livelihoods will be affected if Maine law is simply extended to 12 miles. Will this restrict their ability to operate within 12 miles? It's a serious concern, yet the alternative is more serious. Unless we control our waters, we face the decimation of our fishing industries.

Yes, draggers, shrimpers, and some recreational fishermen may have to shift to outside the 12-mile limit or operate under current Maine laws. These laws need to be examined and undoubtably, compromises would result so that all of our fisheries remain alive.

Last session, we memorialized congress to give us the 12-mile limit. This year with the leadership of Representative Cloutier, we did so again. We've received no answer and no satisfaction. This bill goes one step further. It declares that Maine will control its seas up to the 12-mile limit. It doesn't ask, it announces. It is a shot across the bow, much like the Canadian government's recent action dealing with Spanish fishing vessels just outside Canada's current legal boundaries. When we pass this bill, when we enforce Maine laws to the 12 mile limit, we are not asking, we are acting, acting to protect our fishermen and our marine resources. It is not an easy step. It is fraught with danger, difficulties and confrontations, but it is what we need to do. Thank you.

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

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

Representative CLOUTIER: Mr. Speaker, Men and Women of the House: I feel like there might be a little bit of confusion. We know, and we all agree with what Representative Volenik has said. He alluded to the point that we have all passed a resolution extending the 12-mile limit, but we want the 12-mile limit, we fear that the bill would be unenforceable, but at the same time, we want the message to go out. We'll probably be voting against the bill and then what we will be doing is Representative Etnier will be presenting an amendment to this bill, which was the only issue that we could attach another piece onto. A piece of legislation that we needed passed and it's the fish hatchery bill. It was the only method that we could use as a conduit because we got late in committee and it was the only bill that we could use to attach this amendment onto. So if we vote against the motion and defeat the bill, then we will move on to reconsideration or substitute the amendment for the original piece of legislation. Thank you.

Representative CLOUTIER of South Portland withdrew his motion to accept the Majority **"Ought Not to Pass"** Report.

On motion of Representative ETNIER of Harpswell, the Bill was substituted for the Report.

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

Representative ETNIER of Harpswell presented House Amendment "A" (H-576) which was read by the Clerk

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

Representative SAXL: Mr. Speaker, Men and Women of the House: After we have gone through these procedural hoops to preserve a very important amendment and measure to preserve funds for a ground fishery hatchery, I want to explain the original vehicle and how we got here.

Maine currently has control over its territorial waters out to the 3-mile limit, but as we have learned over this year, there are grave concerns about what happens between the 3 and 12-mile zone which is controlled by the federal government. In this 9 mile zone, we have a great deal of reason for concern, because of the actions taken by fishermen and fishing interests from out of the State of Maine, as well as some of our own fishing interests.

Today before us we're going to have a bill which discusses trap limits and one which discusses the pros and cons of that, and one of the major factors in that debate is why do we have problems in our lobster fishery? Well, one of the major reasons we have problems in our lobster fishery is because of something called bycatch or incidental catch. When folks from Massachusetts come in off from Maine's waters between 3 and 12 miles and drag the shore, taking up 12-pound lobsters which are breeder lobsters, which do a lot to preserve our fishing stocks, our lobster stocks.

We also have the same problems with our ground fisheries, with our cod and haddock stocks. People coming in and recklessly fishing between 3 and 12 miles, while in the State of Maine, we have pursued a very vigorous conservation, through our law-making here and it's worked to effectively preserve a lot of the stocks here within the 3-mile limit.

What this bill attempts to do is to rectify or to send a strong message to the federal government, because right now they are reauthorizing the Magnason Act which controls the federal waters. What we are trying to say to the federal government is that if you won't respond and act to conserve fishing stocks and preserve this way of life, in fact, this heritage of Maine, that the State of Maine is willing to take on its own this responsibility, because we know that a lot of good Maine people have been doing for decades and decades and hundreds of years, have been living off the sea in the State of Maine. We don't

want our grandchildren to be without that way of life, because we understand it as an important part of our heritage. So today, I stand as a strong voice to say to the federal government, we need to make sure that the federal rules guiding the 3 to 12-mile zone off shore be carefully protected so that our grandchildren can have this way of life that many of our neighbors have enjoyed, and also to say that we must make sure that this amendment is passed without opposition because it's important that we invest in our ground fisheries and maintain the hatchery so that the stocks will continue in the future. Thank you.

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

Representative BIGL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to make a few comments concerning the 12-mile limit. A lot of work was done before we got on the committee in past years and Representative Cloutier this year had us sign a memorialization and last year, Representative Look and others did the same thing. There's one real powerful thing that hasn't been mentioned yet, that is rising up now, that wasn't there before and that is the fishermen themselves. There is a group out there, they are organized, they're getting more organized and they are picking up signatures, they are picking up fishermen to be a real power behind our request to the federal government to give us out to the 12-mile limit.

So in the very near future, in the next year or so, we're going to see, we'll call it a sea swell, rather than a ground swell, coming from the fishermen, requesting that we go out to the 12-mile limit. In the mean time, we have to look at how we're going to finance that. I would hope that the future Marine Resources Committee and this august body would also look at how we're going to make that work, so we go out the twelve miles to protect our fisheries and a surer way of life.

House Amendment "A" was adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-576) and sent up for concurrence.

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

UNFINISHED BUSINESS

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

An Act to Modify the Licensure Act for Substance Abuse Counselors (H.P. 1008) (L.D. 1419) (C. "A" H-427)
TABLED - June 20, 1995 (Till Later Today) by Representative ROWE of Portland.
PENDING - Passage to be Enacted.

On motion of Representative ROWE of Portland, rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 1419 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-427) was adopted.

The same Representative presented House Amendment "A" (H-583) to Committee Amendment "A" (H-427) which was read by the Clerk.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: This is an amendment to a bill that was passed out of committee with a committee amendment. The bill was "An Act to Modify the Licensure Act for Substance Abuse Counselors," in Committee Amendment "A," we had redefined section 12, which was entitled clinical supervision. That section was defined in a way that certain groups were exempted from the requirement to have certain certifications. We had excluded from that licensed clinical social workers and licensed clinical professional counselors. I know many of you have received calls about this and I have talked this over with the Department of Professional and Financial Regulation and we came up with a solution and that is the amendment that I'm offering today and I've spoken with members of the committee about this. This will allow the Board of Substance Abuse to, through rulemaking, come up with approved certain other groups including licensed clinical social workers or licensed clinical professional counselors to be clinical supervisors for substance abuse counselors, if they have equivalent qualifications as those mentioned in the bill. I would appreciate your support for this, I think it's important apparently it was an oversight, again, thank you.

House Amendment "A" to Committee Amendment "A" was adopted.

Committee Amendment "A" (H-427) as amended by House Amendment "A" (H-583) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-427) as amended by House Amendment "A" (H-583) thereto in non-concurrence and sent up for concurrence.

An Act to Create the Northern New England Passenger Rail Authority (EMERGENCY) (S.P. 459) (L.D. 1255) (Governor's Bill) (C. "A" S-202)
TABLED - June 15, 1995 (Till Later Today) by Representative JACQUES of Waterville.
PENDING - Passage to be Enacted.

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

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

The SPEAKER: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative LINDAHL: Mr. Speaker, Men and Women of the House: For train service to be competitive, it's got to be realistic. There was an ad several days ago in the Portland paper, advertising $10 from Portland to Boston by bus. That's going to be much quicker. The rail service is going to have to have some type of competitive price

structure along this line. We will be subsidizing train service in direct competition to bus service, which is not subsidized. Their price is determined by competitive market.

I would like to read here, just briefly, an article that was written in Profile magazine a couple of years ago. Charles P. O'Leary, Jr., New Hampshire's transportation commissioner, at the time, stated, "The taxpayers paid $722,000 for a study that is nothing but academic b.s.. The bureaucrats in Washington can use this to study, to justify giving Tim Mellon, one of the richest men in the country, 30 million dollars to improve his private property." Mellon is the owner of Guilford Transportation Industries and Mellon doesn't even want in. What this project does is divert funds from an overwhelming need to repair our infrastructure in order to handle .2 or .3 percent of the Maine to Massachusetts corridor traffic. O'Leary further maintained that the real cost of the Portland to Boston rail link is being hidden from the public, this is in quotes "The original estimate of this project was 86 million dollars but the backers thought that that was too much for the public to accept so they pat it down to around 55 million dollars. They'll add the rest on later."

I'm afraid that we are going to end up subsidizing this whole rail service each year with an annual appropriation to this New England Rail Authority. I'd like to point out once again that the Northern New England Passenger Rail Authority is the State of Maine, the State of Maine alone. New Hampshire loves it when we increase taxes on liquors, cigarettes and anything that affects the border trade. There's been jokes here about New Hampshire giving the Maine State Legislature legislative sentiments in appreciation of some of our actions. We should really get a good one for this. New Hampshire is going to get, by one "guesstimate," 3 stops in Dover, Durham, and Exeter and Massachusetts is going to get one in Woburn. They're not putting up any up-front money to pay for this. The State of Maine is doing it and we will be subsidizing those passengers that are traveling in New Hampshire to Boston and Massachusetts to Boston and back again.

I really think we ought to be taking a second look at this, there's a lot of liability involved, are we paying for the liability insurance for this? Anything that happens in New Hampshire and Massachusetts, I'm not sure. We must compensate private companies for the loss of business due to the rail link, that's federal law and we must provide six years of benefits to any employee who can make a viable claim that pertaining to the loss of employment due to rail link. I would just appreciate it if you'd take this into consideration. Thank you very much.

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

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I'm on the opposite side of this issue than my good friend and Representative from Northport, Representative Lindahl. I view things differently because this bill does not say that we are not going to proceed with the rail project. This bill establishes an authority to protect the state from just exactly one of his concerns and that was the liability issue. If we had a bill before us that was going to stop the rail from being constructed, then I may be on the other side of that issue, but this bill does not stop that from being constructed or improved. This bill here just creates an authority to protect the state from liability. The Amtrak accident that happened in Louisiana, already the state has 200 million dollars in suits against them. I say that if we are going to proceed with this rail to Boston, that we need this authority to protect the state from those suits. That's basically what it does. Thank you.

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: In 1990. 90,000 Maine voters signed petitions to encourage the state to move forward with passenger rail and subsequent to that the legislature passed a bill which in fact directed the state and the Department of Transportation to take all actions that are reasonably necessary to initiate and establish regularly scheduled passenger rail service.

Whether you are skeptical or not about that rail service, the passenger rail authority is the most prudent vehicle for the state to implement that mandate. As Representative from Township 27 stated, this will protect us from some of the possibilities of suits, on the other hand, if you believe there is so much potential for passenger or freight, this authority will also give us the best chance of implementing that and taking advantage and utilizing the federal funds that are now available. Those funds will not be available after October of this year and this may well be the last chance the state has to take advantage of moving into the passenger rail network that's already established south of us. That part of Amtrak's passenger rail system is the most profitable and we would be at the end of that and be able to take advantage of the efforts and the resources they are putting into the northeastern corridor of rail.

I see the railroads being an important economic development tool for both passenger and freight traffic in Maine. The improvements on the rail system between Portland and Boston will increase significantly the ability of Maine companies to receive goods by rail and to ship goods out of the state. We've all seen some of the intermodle facilities that are currently in the state and this section of track will increase utilization and give more chance for future intermodle facilities like the one in Lewiston, Auburn and like others proposed in this state.

It's also a significant tool for tourism development in this state. I think we'll see a lot of people will be interested in riding rail to Portland and to points north if we ever extend the system to that degree. As far as some of the liability for suits from other employers, there are federal funds available as part of the grants to Maine that would cover suits against the state for our private companies that can make a case that they are losing business because of this. That case has to be made first and I don't really think that that's a danger in this particular case. The only opponents to this bill in committee were primarily one bus company that's centered in the state of New Hampshire that doesn't even actually offer service from Portland to Boston at this time. There were a number of other bus companies that either did not testify or

in fact testified in favor of the rail service. I'd encourage you to vote for this bill, whether you're skeptical about the service or not because it offers the best chance for the state to proceed in a prudent manner with the mandate we have from the people of this state.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: The previous two speakers have covered most of the important points. I just want to emphasis to all of you that we are all very grateful for the 95 votes that we got last week, we hope, those of us who have supported this bill are very hopeful that you will continue to support the bill as you did last week and we also hope that, I know we've worked very hard to talk with a lot of you who voted "no" a week ago and we hope very sincerely that we have answered your questions and that we have earned your vote today.

There are many reasons that each of you could use to support this legislation. Each of you who feel strongly about the environment, about tourism, about creating jobs, about the future of industry, and about alleviating the heavy burden on our road system and the pollution that is caused by that heavy burden, has reason to vote for this bill. This bill is about all of those issues and I sincerely ask you for your support. Thank you very much.

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

Representative FARNUM: Mr. Speaker, Members of the House: I would not have endorsed the bill if the liability clause had not been put in. It has been put in and Maine is not going to be liable for anything.

I also read in the Wall Street Journal this morning, even though Amtrak is decreasing its business by 22 percent, it is going to spend millions and millions of dollars on new trains, part of which will be coming into Maine. Thank you.

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

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: I think voting on this issue is sort of a comfort level, and my comfort level is not as high as some others. It's true that 90,000 citizens did sign a petition but I wonder if they would have signed that petition had they had the question asked, "Are you willing to put a lot of state dollars into this thing?" You probably would have got a different reaction. The original request was somewhere in the vicinity of 3 million dollars and it went up to 4, 5 1/2, and now it's gone up even higher than that. I think nostalgia plays a part in this, I think, 90,000 people signing the petition probably felt some of them at least felt, gee it would be great to ride a train again. Sure, I'd like to ride a train again. But I'm not sure I'm going to ride it often enough to make this thing a paying proposition. It's like if somebody asks me if I'd like to get aboard an old paddle-wheel boat with a Dixieland band playing on it. Yes sir, I'd love that, but I'm not sure that I'd want my state and federal dollars to subsidize it to the extent that Amtrak is going to be subsidized.

Amtrak does not have the best financial business records of businesses in the United States and I'm a little bit leery about getting in bed with Amtrak. The good Representative from Westbrook thanked those who supported the bill and I would thank those and continue to thank those who will vote no on this issue. Thank you very much.

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

Representative PERKINS: Mr. Speaker, Men and Women of the House: The United States is the only industrialized country that doesn't have extensive railroad passenger service. When I hear talk about subsidy, that we have to subsidize it, of course we'll have to subsidize it, just the way we subsidize rubber tired vehicles, traffic airlines, we built the interstate, we subsidize petroleum. To this day, I mentioned briefly the other day, it is way cheaper to move goods and people by rail than it is by most rubber tired conveyances. We subsidize petroleum when we pay to keep the oil flowing all around the world. Don't get me wrong, we need to keep a strong military to do that, it's vital to our interest but if we had to pay for it when we buy it at the gas pump, or buy our airline tickets, it would put a different perspective on it. We need to keep the oil flowing. We need to keep a strong military presence to do it but let's admit that we are subsidizing it and since rail is way cheaper to move goods and people than the other modes, then by that way, we're subsidizing the others at the expense of rail. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Dover-Foxcroft, Representative Cross.

Representative CROSS: Mr. Speaker, Ladies and Gentlemen of the House: I've listened to this particular story for quite awhile, my good friend Representative Lindahl from down in the coastline is nailed it on the head as far as I'm concerned. Up my way, they tore up the B & A Railroads, they've sold all the station houses, they've done the whole works, sold the land, the whole works. Now the people in southern Maine, are saying that the State of Maine is going to subsidize a track from Boston to Portland, when we can't find money enough to fund the schools, for our human services, for our poor, whatever, and we're going to guarantee dollars for a rail that is somebody's whim. Come on ladies and gentlemen, think of where you're putting your money.

The SPEAKER: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative LINDAHL: Mr. Speaker, Men and Women of the House: Representative Perkins from Penobscot says that it was right, that rail is profitable and very economical to move freight and it's currently doing so in this state without subsidy. Passenger rail service will not be profitable, revenues are estimated to be about one half of what the expenses will be. The original bill that they are touting, stated in it, set a date that the money should have been spent more than 2 years ago and it hasn't been done yet. I haven't heard a huge outcry from the public saying, "Why wasn't it done?" Representative Chartrand from Rockland did state that Amtrak passenger service in New England is one of the most profitable, but I must point out to you that it is still losing money and we will be subsidizing that. Thank you.

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

Representative BUCK: Mr. Speaker, Men and Women of the House: I'd like to respond to Representative

Perkins when he suggested that many modes of transportation are subsidized and he's absolutely correct. But the difference here is that Amtrak has been subsidized for a number of years and we all know that it's bankrupt. I can't possibly understand why Maine is going to turn around, and as the Representative from Boothbay said, jump in bed with them and somehow think that this program is going to be successful. The Representative from Boothbay is correct, it's a nostalgic thing, and I would suggest if we're into nostalgia, we could do it a lot cheaper, perhaps we could institute the stagecoach between Calais and Boston on Route 9, or reinstate it.

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: I would submit that this isn't nostalgia, but this is, in fact, looking to the future. As other states move into rail use, Maine will be left at the station, so to speak, unless we move forward now.

In terms of the amount of subsidy we're giving to this on a state basis, there is very little money that will go for this rail project that could be used for any other purposes. 3 million of the state's share of this comes from a bond issue passed by the voters in 1992, that can't be used for other purposes. $2,500,000 is from salvage credits for some of the reconstruction on the rail line that will be done, salvage credits for parts that are going to be taken off from current use. $1,250,000 is local contributions from stations and other facilities built by communities along the rail lines. They are fully willing and enthusiastic about building these facilities because they know that will bring in more dollars in the future to those communities. The money that is spent by those communities counts as a local share, that's not money we're taking out of the general fund or any other fund in Maine. $1,750,000 of the 8 million dollar total is coming from in-kind railroad bridge improvements being done by the Department of Transportation. Those improvements also do not come from a fund that would be used for highways, or paving, that's money to rebuild bridges that currently exist to make them safe. Although we are lucky enough that that money will also count as an in-kind contribution towards our match. Right now, we may even be negotiating a better deal with less local match funds than this but we need to give the Department of Transportation enough leeway and enough authority to work with Amtrak and give Maine the best possible situation. I would encourage you once again to vote for this rail authority.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: A couple of points to emphasize something I said earlier. First of all, I want to talk about tourism. As you know, one of the issues that's facing the Transportation Committee has been the project planned by the turnpike to do a congestion pricing. One of the objections to the congestion pricing was, in fact, that the $2 charge that would be dispensed, a simple matter of $20 in 1995 and $20 in 1996 would be detrimental to the tourism industry. Now if that's the case, and I'm not sure that it is, let me just talk about tourism just for a minute because we see tremendous long range benefits to every aspect of that vital industry, whether it's buses, or cabs, or shuttle services, or inns or bed and breakfasts, or hotels, or restaurants or whatever, we see a tremendous prospect for a healthy increase in their business. I recall, and many of you do too, I'm sure, the old Union Station in Portland. I spent a lot of time there when I was a young person because my grandparents lived there and I was always impressed by the fact that when those people landed in Portland, they just didn't stay in Portland. They were going out all over the area, all over our state, by bus, by cab, by shuttle service and yes, in fact, I recall, some by very beautiful limousines. The luxury liners that come into Portland, we're getting more every single year, all you have to do is talk to them down there, the people aren't just staying in Portland. They want bus service, and shuttle service and cab service to Kennebunk, they want to go to the area to former President Bush's property. They want to go to Freeport, they want to go to Camden, Rockport, they want to go in a variety of different directions. The ski train to Bethel, has already created, just a couple to be sure, but I understand a couple of very small businesses have developed with buying cars that they bought locally in the area, hiring a couple of drivers who take people from the train to the Bethel Inn and to the shops and the mall that's being developed down in that area to the ski areas and back again. As far as industry goes, certainly the paper industry is one of our major industries in the state along with the one we just mentioned, tourism, they are on record, the paper industry is on record as hoping that the improvement of the condition of our railroads will be forthcoming. They feel it's essential to keeping their industry competitive in the 21st century, and not just the paper industry, but all industries will benefit by the upgrading of these tracks. Jobs will be created, the bus companies, I mentioned, car rentals, hotels, inns, stores, and in fact, almost every imaginable type of business that you can think of will be gaining from the reinitiating of passenger service.

Finally, I believe that the timing is right. Establishment of a passenger rail authority is a much needed step in the process of moving forward on the development of enhanced passenger rail service in Maine. Our future economic well-being relies on our ability to be multi-module, to that end train service is a critical component of the overall transportation mix. I should say, because I'll be very unhappy with myself if I don't mention to you now, while we were very grateful for the 95 votes we got last week, including the vote of one of the people who just apparently was speaking against the issue, we need 101 votes, ladies and gentlemen so please consider your vote very carefully, we appreciate it very much. Thank you.

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

Representative HEESCHEN: Mr. Speaker, Members of the House: This is definitely not nostalgia that advocates for tying into the northeast corridor. As Representative Chartrand has indicated, this is really looking forward, looking to the future, the northeast corridor is the most vibrant rail corridor in the United States, it ranks high in the world with activity and potential. When pro-electrification is made from New York to Boston and high speed trains are introduced, this will be even a more powerful

attraction to tie into. We could not be tying into a better place in the whole country, to the Amtrak system than where we're tying into as an extension of the northeast corridor. We're going to get a lot of business that way and I should note that Amtrak is not bankrupt. The money problems Amtrak has can really be laid at the hands of politicians who insist on yanking Amtraks's chains every few years and not letting them do their work right. I think that we should let the rail authority go ahead so that we, in this state, can go ahead in a reasonable manner and protect the state and develop this possibility.

Representative BAILEY of Township 27 requested a roll call on passage to be enacted.

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

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

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

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

The SPEAKER: The Representative may pose his question.

Representative GOOLEY: To anyone who would like to answer. I would like to hear just a little bit more about Representative Farnum's mention about the liability. I'm concerned about this liability problem and I'd like to ask anyone who would like to comment a little bit more on the liability.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: A fair question, it deserves an answer. As has been mentioned already, by establishing the authority it relieves the state itself of any liability but I want to go one step further than that. Talking, for instance, about the job loss, there's been 3.6 million dollars set aside in the area, which is twice the amount of money that has been set aside for any other project of this kind, just to meet that, if that should be a problem. By establishing the authority, the state will not be facing a liability regarding injury, regarding accidents, for instance even the fact of the loss of the funds, the federal government has never requested any entity to return any money even from those in an area, one state, for instance, that never even began a project, they were never asked to return the money. We are with the authority, the state is relieved of that responsibility.

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

Representative LINDAHL: Mr. Speaker, Men and Women of the House: In response to Representative Gooley's question, I have here in front of me, it says in reference to rail authority, it's questionable rather the creation of a rail authority will insulate the state from the potential liability which may result from the operation of the purposed rail service. A representative from the U. S. Department of Labor stated that this device is unlikely to limit the state exposure to liability. Thank you.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, we have an attorney general's opinion to the contrary. Thank you.

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

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: May I pose a question through the Chair? The Transportation Committee asked the federal government to send us a letter stating that the State of Maine would be completely exonerated from any liabilities to repay the 38 million dollars. I would like to ask if anyone here would answer that question, did we get exactly what we asked for, did they completely exonerate us through a letter?

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: In fact, we have not received such a document, but we have received more than enough assurance that that is not going to happen and in fact, as I stated earlier, in response to Representative Gooley's question, nobody has ever, ever been asked to return the funds, including, in one particular situation where nothing even happened. We are underway, we are clearly going to do this, they know this and our congressional delegation has assured us that that is not an issue we have to be concerned about. I do want to point out while I am mentioning it, and I know I have to be very careful about answering a question and debating but if I may, Mr. Speaker, our congressional delegation, speaking of them, are doing their darndest to hold onto that money, ladies and gentlemen of the House, and we really need to take this action, the situation being what it is in Washington, certainly just like it is here in the State of Maine, financially, we do risk the chance of loosing those monies. Thank you.

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

Representative FARNUM: Mr. Speaker, Men and Women of the House: This railroad will help small businesses. I can speak of what is happening in Wells. They are building a railroad station, they are building a bus station, which will be serviced by buses built in Maine and these buses will go anywhere from Kennebunk down to Kittery. There is also inquiries from car rental places to also put in an office there to take care of the passengers that want to rent cars. This is definitely a plus for Maine.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Chartrand. Having spoken twice now requests unanimous consent to address the House a third time.

Is there objection? Chair hears no objection, the Representative may proceed.

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: In regards to the letter, we did or did not receive about the obligation to repay federal funds, we did receive a letter and it stated that obviously the obligations that we as taxpayers place on the use of federal funds does not permit the U. S. Department of Transportation to send a letter to a state saying they would never request a return of the funds. There could be cases where funds were totally misused by individuals or by municipalities and in that case the federal government has to have the right to request a return of funds if they are not used for the purpose originally intended. Therefore they stated we can not possibly by our obligations guarantee that, however, these funds have never repaid by other areas of the country before and they have never been requested to be repaid and each case would obviously be done in a case by case basis depending on the intention with which those funds are used and the good faith efforts with which they would be spent. In fact, the rail authority would be a strong indication of this state's willingness to use those funds for the correct purposes. As far as the Amtrak profitability, from the testimony I heard in committee, although there's many areas in the country that are not happy with cutbacks Amtrak has made in service to those areas, as a small business person I could emphasize with what they have tried to do is to make their operation leaner and more profitable, to get rid of the parts that don't work. It's been a painful process for them and for some parts of the country, but what we will have is a stronger more profitable Amtrak, and this is one of the areas they have chosen to continue to include, partly through the strong efforts of both sides of our congressional delegation to keep those funds available. Thank you.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Sirois.

Representative SIROIS: Mr. Speaker, Ladies and Gentlemen of the House: I've worked on the railroad for 35 years and if you want to move a whole pile of people, that is the cheapest way to do it. I worked under New Haven, I worked on the Bangor and Aroostook, and I worked for the government, and I know for sure if there is congestion anywhere, this is the cheapest and the quickest way you can get the people from where they want to start off from to where they want to go. As far as I'm concerned, I'm all for the railroad. Thank you.

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

Representative BIGL: Mr. Speaker, Ladies and Gentlemen of the House: I just had a thought, we're talking about Amtrak and Amtrak is on shaky ground and we want to shake hands with Amtrak. Why don't we just put this bill off until we are sure that Amtrak is going to be on good solid foundation, then we invite the bill back in again, sit down with them again and shake hands at that time. Thank you.

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

ROLL CALL NO. 214

YEA - Adams, Ahearne, Bailey, Barth, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, DiPietro, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gooley, Gould, Green, Greenlaw, Hartnett, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Joyner, Kerr, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Lemont, Libby JD; Libby JL; Luther, Madore, Martin, Mayo, McAlevey, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nass, Nickerson, O'Gara, O'Neal, Ott, Paul, Pendleton, Perkins, Poulin, Pouliot, Povich, Reed, W.; Rice, Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stevens, Strout, Thompson, Townsend, Treat, Tripp, True, Truman, Tufts, Tuttle, Tyler, Volenik, Watson, Winglass, Winn.

NAY - Aikman, Ault, Bigl, Birney, Buck, Campbell, Donnelly, Dore, Gieringer, Guerrette, Heino, Jones, S.; Joy, Labrecque, Lane, Layton, Lindahl, Look, Lumbra, Marshall, Marvin, McElroy, Peavey, Pinkham, Reed, G.; Robichaud, Stedman, Stone, Taylor, Underwood, Waterhouse, Winsor.

ABSENT - Dexter, Joyce, Keane, Kneeland, Lovett, Nadeau, Plowman, Poirier, Vigue, Wheeler, Whitcomb, Yackobitz, The Speaker.

Yes, 106; No, 32; Absent, 13; Excused, 0.

106 having voted in the affirmative and 32 voted in the negative, with 13 being absent, 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 Speaker resumed the Chair.

On motion of Representative JACQUES of Waterville, the House recessed until 1:30 p.m.

(After Recess)

HOUSE DIVIDED REPORT - Majority (9) **"Ought to Pass"** as amended by Committee Amendment "A" (H-498) - Minority (4) **"Ought Not to Pass"** - Committee on **Business and Economic Development** on Bill "An Act Regarding Unredeemed Deposits on Beverage Containers" (H.P. 506) (L.D. 687)

TABLED - June 19, 1995 (Till Later Today) by Representative ROWE of Portland.

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

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

Resolve, to Require a Study of Retail Competition in the Electric Industry (EMERGENCY) (S.P. 386) (L.D. 1063) (C. "A" S-251)

TABLED - June 20, 1995 by Representative KONTOS of Windham.

PENDING - Final Passage.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: This is probably the one

single item that's been the dearest to me since I've been here. This is a matter of 5 years that I personally have been involved in this issue.

Basically, ladies and gentlemen we're talking about retail wheeling. Retail wheeling, for the people who have not been involved, is the transportation, the movement of electricity from the generator to the user. Ladies and gentlemen this is governed by FERC, it is not governed by state regulations, it is governed by FERC. The reason I want to speak to you on this issue is that I spent, for the first time in my life, I have spent state money, your money, the people's money to go learn about what was going on in the country, so I flew to Chicago and spent 3 days at a seminar to find out what was going on. If you abide with me for a few minutes, I know we have a lot to do, I will try to explain what is going on in the country and try to give you an understanding so that you will know why I feel the way I do.

The FERC representative, Mr. Whitmore, spoke and what he said, the first thing was, what you have to do is try to prevent the thought, the idea of moving electricity from being put to a commission, a commission would delay it, ladies and gentlemen, 10 years. This is what they told us. I say, well I have nothing to worry about, I have spoken to the chairman and I spoke to, I have a friend on a committee that will bring it out, and I will get to speak to the issue. Well low and behold when I got back, guess what happened. That's exactly what had happened. We were going to have a study. Guess what happened in 1986? In 1986, the Utility Commission, we then had Tom Andrews, we had Herb Clark, Senator Vose, and ladies and gentlemen we have right here, Electric Power Transmission Wheeling, here is the report, it is downstairs in the library. It is all available. We don't have to spend money on the report as to the values of retail wheeling, it is right here.

They told us what was going on. New Hampshire has introduced legislation and what it says basically is that we are looking for the job creation aspect part of retail wheeling. We want to be ready so we can take advantage of bringing the jobs to New Hampshire. Now, you talk about sucking jobs out of state, we've had the golden little road between New Hampshire and Massachusetts that has been costing us a dollar to get in and a dollar to get out and while we're going there they're taking our money with booze and they take our money with cigarettes and you wonder why we are having problems. These people don't even have any sales tax, they don't have an income tax. They don't have to. This is what's going to happen, if we don't get on the ball and get moving on this and create the jobs here in the State of Maine, they're going to be brought to New Hampshire.

Another thing, California, supposedly California was not going into retail wheeling, California, ladies and gentlemen, retail wheeling is available January 1, 1996 to anyone that applies for it with full retail wheeling by the year 2003, full retail wheeling. The explanation that they give, they have the highest cost on the west coast and we almost had the distinction of being the same thing on the east coast. They are looking at 8.7 cents per kilowatt hour and if you go 1,000 miles to the north and you go to Washington state, the cost there is 2.2 cents per kilowatt. Four times greater and it's done because of regulations by the PUC in California, this is exactly what has happened in this state, ladies and gentlemen. We have got all kinds of spin guru's that say we can not do this, we can not do that, for whatever reason you might say, but the federal judge has ruled that one of their arguments, stranted investment does not exist. California has said, we are looking at it and we are going to find the answers and stranted investments are part of our solution. We are going to find a solution. Ladies and gentlemen, anybody who wants to see, the Revised Statutes Titles 34, 35, Chapters 740, deals with the study report that was done in 1986 and we are going to work on this and do the same thing at the present time. We've got 10 years and that's exactly what they told us in Chicago, that it would take 10 years but we're going to take 20 because we're going to do it again and they've got a 2-year study. Ladies and gentlemen, I thank you for listening to me, I tell you I think that we should seriously look at this and try to force something to occur beyond allowing the PUC and/or the no can do guru's to restrict us and stop us from doing this. Ladies and gentlemen, thank you very much for listening, I appreciate it and I wish I could tell you we have a different avenue to go but I don't think we have. Thank you.

On motion of Representative HEESCHEN of Wilton, rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 1063 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-251) was adopted.

The same Representative presented House Amendment "A" (H-565) to Committee Amendment "A" (S-251) which was read by the Clerk.

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

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

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

Representative HEESCHEN: Mr. Speaker, Men and Women of the House: One of the issues that the committee spent some time on was trying to come up with the representation on the working group for the study on energy competitiveness and we tried to get members on, to represent all the players involved.

As the Representative from Winslow has correctly indicated, this is a very important study. It goes, retail wheeling is one part of it, it really deals with the future of the electric industry in the State of Maine and in fact, this region.

The amendment that I have before you is a proposal to add a member representing the interests of municipalities. In looking over, considering all the different members on the study commission, we have four legislators, member representing the state planning office, the public advocate, the public

utility commission, the three major utilities are each represented, Maine Public Service, CMP, and Bangor Hydro, the consumer owned electric utilities are represented, Maine Yankee is represented independently, even though it is owned by most of the utilities in the state, we have producers, consumers, the industrial energy consumers group, which includes both consumers and producers, we have generators, independent energy producers, we have one member representing small business customers, and we have two members representing low-income or elderly customers.

In speaking for several other people, I felt that one interest group that was left out of this and which can be affected in major ways by this are municipalities. I don't believe that the consumer electric utilities, as represented by Dirigo Electric Corp., necessarily adequately represents the interests of municipalities who may, or may not choose to become a separate utility, but may be very much interested in the question of retail wheeling and other issues of competitiveness. I urge this body to support this amendment and give our municipalities a voice on this very important study. I think that then, the membership of the group will have a fair representation across the board of a wide range of interest. Thank you.

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

Representative TAYLOR: Mr. Speaker, Men and Women of the House: I urge you to vote against this amendment to increase the size of this study committee. As originally conceived, the committee was to have 15 members and be ruled by majority vote. As a concession in committee, 3 members were added and two-thirds vote requirement accepted by unanimous vote of the committee. This House amendment proposes as an attempt to, by the same committee member, to further dilute the effectiveness of the study committee to find a common ground to deregulate the generation of electric power. This is a very important task and I think we need to keep the committee to a manageable size. It should be recognized that any results from this committee will come back to the Utilities Committee and eventually come to the floor so everyone in the state is going to be well represented.

For a committee to work effectively, it needs to be broad enough to cover the various interests but not so large to be unwieldy, 18 members is more than adequate. Issues will require 12 votes to carry. The sponsor of the amendment has received ample consideration in the Utility Committee and voted for the committee report. I urge you to reject the further attempt to expand the committee. Thank you.

Representative TAYLOR of Cumberland requested a roll call on adoption of House Amendment "A" (H-565) to Committee Amendment "A" (S-251).

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

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

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

Representative VIGUE: Mr. Speaker, Men and Women of the House: This amendment brings it up to 19. Nineteen people that will be involved in a study to be conducted that has been done 10 years ago and it's fully documented right here.

I tell you ladies and gentlemen, if we continue doing these things that cost us money and really have no net effect, I am not against retail wheeling, I am probably the biggest advocate, and this will probably be the biggest job creating thing that could be done. A study will not help, what we have to do is get off the dime and get it done. We should have done this 10 years ago after we read the first study. Anyone who doubts me, come down and get this study, you can read it. It was right in the public library, right in the Capitol library. I tell you, ladies and gentlemen, a study like this we need like we need a hole in the head. Thank you.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I would urge you to support the amendment that is being proposed. The size of the committee is going from 18 to 19, which is not an enormous jump. At the same time, what is being accomplished by adding one person is one person who would then be in a position to represent the interests of communities, the interest of municipalities. Those interests are many and varied and it's a voice that really ought to be heard in this discussion and I would urge your support of this amendment. Thank you.

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

Representative SAMSON: Mr. Speaker, Men and Women of the House: I also rise in support of this amendment. One of the bills that I presented has been kind of folded into this study. I think it's something worthwhile. Hopefully it will be good for the communities that we live in and as Representative Heeschen mentioned, one missing link in this study group is someone from a municipality to serve on this committee and I hope that you will support this amendment.

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

Representative STONE: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the Utilities and Energy Committee, we discussed this issue time and again and had several opportunities to discuss it further when we went beyond the ad hoc committee and discussed it in full committee and the time is for action now and I do not believe it's necessary to amend this any further than we did in the committee. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wilton, Representative Heeschen.

Representative HEESCHEN: Mr. Speaker, Men and Women of the House: I'm not offering this amendment to dilute the effectiveness of the committee. I'm offering this amendment to make sure that the results of the study fairly represent the interest of all parties of this state. Absent adequate representation on any kind of study committee, you run the risk of that study, it's result being suspect. I don't think it's adequate to say that the municipalities can make their case at one of the perhaps three or four public hearings that this study group will have around the state. I think

municipalities need to be an active participant throughout the process.

Now it's true, I did support the majority report, the unanimous report, but I think, often you don't think of things in a committee, at least I thought we were suppose to have the ability to offer amendments at many stages in this process. I spoke with at least one member of the ad hoc committee that looked at this, who told me that they felt that if they had thought of it when they were coming up with the recommendations that they probably would have included someone from the municipalities on this, but they didn't think of it. It seems to me each stage of the way here, we have the ability to get some additional thoughts in on something and make something better.

I should also note that I had been thinking about taking a minority report out dealing with the question of the committee decision. It would have been a unanimous minority report, because at one time I was advocating for unanimity in the results of this discussion so we would have a minority unanimous report plus a majority report or two-thirds majority report as it may be, but I actually concluded that that wasn't as important as the make-up of the commission and I do think that this will be a definite advantage to the overall product here to have this input throughout the process.

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

Representative KONTOS: Mr. Speaker, Men and Women of the House: I'll be supporting the Representative's amended language to include an additional member to the committee. In large part because it was not a topic that came up in any of our discussions but more importantly, as a matter of process regardless of who offers any language. To me as a chair of that committee, and someone who is on the ad hoc committee, or to any other member of the committee, we all have a right to offer these ideas. I don't live with an illusion, however, that it will be on there when it comes from the other body. I think it's probably going to be debated heavily at the other end of the hall, but I think we have a right to hear his argument and he makes a very good point about an entity that isn't represented in the current group.

Secondly, for the record, while the Representative from Winslow, I think, initially gave the impression that the scope of this study is retail wheeling, it includes about 20 other topics. I don't want any of you to think that the study that is being proposed here is as limited as that. It's a piece of the study. It certainly is not the only part of it and it's a major piece of work that will enlighten all of us in our decision making about electric utility competition.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: While I think it's perhaps not a bad idea to include someone from the municipalities, I will be voting against the pending motion simply because this really is the result of a compromise and the other side came a long way with us to make it an 18-member committee and to insist upon the two-thirds and I kind of thought when we left we had made a deal and I think we should stick with it. Thank you, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Benedikt

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

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

Representative BENEDIKT:: How does he plan to implement the recommendations of the previous study that he says is on file?

The SPEAKER: The Representative from Brunswick, Representative Benedikt has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: The answer really is quite simple, what we have to do is decide where we're going to go and submit legislation that will tell us we must look at retail wheeling and see about implementing it before New Hampshire does it and does it to us once again.

We have got the highest regional area, as far as total cost of electricity and if we allow the neighboring states to capture this moment, the time ahead of us we'll be trying to catch up two years from now when this study is completed. What I want to do is to let's, if you want a study, read the study, this is strictly if you take the whole ball of wax, whether it's all the different areas, it is dealing with competitive electricity and competitive electricity is the movement to selling electricity from somewhere. July 1st, a week from now, right, the mercantile in New York will be selling electricity on the market, you will be buying electricity futures. They have pooled the west, the west is now that organized that they are selling futures on their abilities to transport and move electricity to Texas, to California, to Minnesota, to Ohio, you can buy it. I can give you stories about General Motors, what they did, but I'm not going to bore you with a lot of details, you would love to hear it, if you want to hear it I will give you the stories but this is what we should be doing.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is adoption of House Amendment "A". All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 215

YEA - Adams, Benedikt, Berry, Brennan, Bunker, Chartrand, Chase, Chizmar, Cloutier, Daggett, Desmond, Dore, Etnier, Fisher, Gates, Gerry, Green, Hatch, Heeschen, Johnson, Jones, K.; Joseph, Keane, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Martin, Meres, Mitchell EH; Mitchell JE; O'Gara, Povich, Richardson, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Tripp, Truman, Tuttle, Tyler, Volenik, Watson.

NAY - Ahearne, Aikman, Ault, Barth, Bigl, Birney, Bouffard, Buck, Cameron, Campbell, Carleton, Chick, Clark, Clukey, Cross, Damren, Davidson, DiPietro, Donnelly, Farnum, Gamache, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Heino, Hichborn, Jones, S.; Joy, Joyce, Joyner, Kerr, Labrecque, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Luther, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Morrison, Murphy, Nass, Nickerson, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poulin, Pouliot, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rosebush, Savage, Simoneau, Spear, Stedman, Stone, Taylor, True, Tufts,

Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor.

ABSENT - Bailey, Dexter, Driscoll, Dunn, Fitzpatrick, Jacques, Kneeland, Nadeau, Poirier, Strout, Yackobitz, The Speaker.

Yes, 52; No, 87; Absent, 12; Excused, 0.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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52 having voted in the affirmative and 87 voted in the negative, with 12 being absent, House Amendment "A" (H-565) to Committee Amendment "A" (S-251) was not adopted.

Subsequently, Committee Amendment "A" (S-251) was adopted.

Representative VIGUE of Winslow moved that the Bill and all accompanying papers be indefinitely postponed.

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

Representative KONTOS: Mr. Speaker, Men and Women of the House: I urge you to vote against the pending motion.

The Chair ordered a division on the motion to indefinitely postpone the Bill and all accompanying papers.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: I too, must urge you please not to vote to indefinitely postpone the bill and all its accompanying papers. Although I do wish at this time to put onto the record remarks that would indicate that the subject which the good Representative from Winslow, Representative Vigue, has brought to the attention of this House, that is retail wheeling is certainly a worthy one. He deserves the credit for having kept it as an issue close to his own interests and close to ours by keeping it upon our table at the Utilities Committee and then bringing it here.

The reason we should take some note of that is because in a very changing world as the electrical monopolies we are used to thinking about, slowly split into divisions that may generate or may deliver electricity and then we're going to have to speak about how large amounts of electricity are delivered to us, that's called wheeling. Who pays? Who gets a cut? Where it goes, and how we pay for it when we get it, that retail wheeling is exactly going to be one of the subjects you and I are going to have to become familiar with, if not on this floor then in our pocketbooks when it comes time to pay the bills. For that reason, I believe the good Representative from Winslow deserves credit for keeping the idea right in front of us.

However, in order that we may pursue the idea with this study committee to come back to this body through the Utilities Committee with some ways to make it work, I would encourage you please not to support the indefinite postponement measure, so that we may go on to pass the bill and indeed deal with the subject that the good Representative from Winslow, Representative Vigue, we'll find included in the bill along with a dozen or two dozen other subjects that will be equally important to os all. Thank you.

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

Representative TAYLOR: Mr. Speaker, Men and Women of the House: I urge you to vote against the motion to indefinitely postpone. This is a very important topic. If it's done properly, it will be to the benefit to all the citizens of the state, not just those in the most populous areas. In the rural areas, we want to make sure that while we deregulate, we also keep enough structure so that nobody gets left out of the benefits of this. Please vote against the indefinite postponement. Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I have never had as much interest in an issue as I have right now. I remember speaking before the 115th Utility Committee and the 116th and I could not get any interest at all. I now have got a letter here saying that the retail wheeling resolution is now in effect. I have been asked to go out and give them what information that I have to allow them to get to this point. So ladies and gentlemen, I tell you, I ask you to indefinitely postpone the bill and all accompanying papers and let's see if we can't come up with a different answer that is going to solve this problem and put us in an equal position with our neighboring state and not allow us to go down the road of a study. Thank you.

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

Representative KONTOS: Mr. Speaker, Men and Women of the House: I'm sorry to delay this debate so long. To be quite honest, I am bewildered by the motion, disappointed by the motion, when I believe the committee accommodated the request of the Representative in a most appropriate way.

The bill before you is the result of the work of not just the committee, but of an ad hoc committee representing all affected parties that are in this industry. To vote to indefinitely postpone is going to be a very difficult vote for you to explain when you go home because what you said, if you indefinitely postpone, is we do not intend to look at the implications of this changing industry. We do not intend to help provide an orderly transition from a heavily regulated industry to a more competitive industry, and what will happen if we do not provide an orderly transition is that you and I and our businesses and our constituents will be at the mercy of a competitive market finding its way from being a regulated industry. That will not happen easily and men and women of this House, the money involved in these decisions is larger than the state budget. This study is designed to move us to that place in this state's history where we all understand who the

players are, what the costs are, and what the competition will and won't be. Now if you're willing to take on that responsibility of a disorderly move toward competition then you'll support the pending motion. I believe with all my heart that you are much more insightful than that and that you are going to vote against the pending motion because you know that's the responsible thing to do.

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

Representative KEANE: Mr. Speaker, Ladies and Gentlemen of the House: I don't know too much about the subject involved here, and I'm a little bit confused by it all and I hope that people hearing their testimony can help me through this maze. I see a Representative who has been involved with this issue for quite a number of years. I see a report which was done in 1986 that addresses the subject. I see a critical nature involved to get into the competitive market as soon as possible and I see a bill before us which is going to take two years to evolve and possibly even three to be effected and I'm wondering where our priorities are and I would appreciate any type of testimony that would help me out of this dilemma. Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I have seen the effects of a modified rate decrease of electricity on a number of areas. Number one, you can look at the Kyes Fiber issue, which 4 years ago I had something to do with. I worked on it. It has now created, because of a modified reduction in the price of electricity, it has now created 300 jobs. You look at the Madison Paper, a small electric utility, ladies and gentlemen, they are now studying the possibility of putting up the largest paper company in the world. Have they fallen in love with Madison Paper or with the town of Madison? No, they can buy electricity at a lower rate. There are two or three areas in the State of Maine that are buying electricity right now at half of the rates that we're paying. Do you know why? They've got a little pump that they call a utility and they transfer it, they can bring the power in because wholesale wheeling is allowed all over the country. You can bring power anywhere in the country to another place in the country, no one can prevent it. You can not prevent it from utility to utility. All you need is a pass through. A pass through means, okay you can bring it into Central Maine Power, we'll give it to you and they allow a pass through and that power is then bought at the price plus a wheeling cost. The wheeling cost is about a half of a cent per kilowatt. So ladies and gentlemen, you can look at all of these things. You can have a study. You can spend 3 years, but we're going to find ourselves 3 years behind our neighboring states. New England has got the highest costs. We've got that nice title between us and California, in between they go anywhere from 2.2, 3.3, 4.4, and they have pooled their resources and they now are selling on the mercantile. New England has done it. The Netherlands have done it. They pooled their electricity and this way they have come up with a better rate. All I'm saying is that we should try to move this a little beyond the study, at least give it some serious thought, because I think it's going to affect our future. It's going to affect our jobs. This in and of itself could create more jobs than any amount of bond issues or any work that we might be able to do. This by itself would create them. Thank you.

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

Representative STONE: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the ad hoc committee that spent 16 or 17 hours working on the structure for this study so we could make a proposal to the PUC to tell them what to study and give them some suggestions. Mr. Buxton who represents Maine's largest consumers of electricity served on the ad hoc committee and is going to be a member of the study committee and had no problem with the ad hoc committee and has no problem with the study committee and he represents in most cases the very people that the good Representative is speaking about. What this study will do, in addition to working on Maine's largest consumers, it will look at the little guy and the little person that the majority of us are here to represent and this is a good study and it's a good proposal and I think we have to move forward with it. We have no alternative than to do this. Thank you.

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

Representative TAYLOR: Mr. Speaker, Men and Women of the House: To refer back to the citations made by the good Representative from Winslow, Representative Vigue, it sort of proves the point of why we're concerned. Retail wheeling on the face of it is obviously excellent for Keyes Fiber or Chinet, as they are now called, or Madison. We want to make sure this is an even deal for the small residential owner who is going to be left with the invested cost of trapped investment in the utilities. If it isn't done carefully, they are going to be picking up a lot higher rates because many of the utility costs are fixed and there will be a much smaller basis. It's what you called cherry-picking when you go around and you pick the best customers and you get an excellent rate from Connecticut or wherever for these customers, but it leaves the investment of the larger utilities in the state to be paid for by the residential customer. They are the people who really need to be protected and are going to be one of the beneficiaries of this study. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion to indefinitely postpone the Bill and all its accompanying papers. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 216

YEA - Bailey, Barth, Birney, Buck, Cameron, Campbell, Cross, Damren, DiPietro, Gieringer, Gooley, Guerrette, Heino, Hichborn, Joy, Joyce, Joyner, Keane, Kerr, Labrecque, Layton, Lemont, Libby JD; Libby JL; Lindahl, Lovett, Lumbra, Madore, Marshall, Marvin, Murphy, Nass, Paul, Pendleton, Perkins, Pinkham, Reed, W.; Savage, Stedman, Tufts, Vigue, Waterhouse, Winglass.

NAY - Adams, Ahearne, Aikman, Ault, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Chartrand, Chase, Chick, Chizmar, Clark, Clukey, Daggett, Davidson, Desmond, Donnelly, Dore, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Greenlaw, Hartnett, Hatch, Heeschen, Johnson, Jones, K.; Jones, S.; Joseph, Kilkelly, Kontos, LaFountain, Lane, Lemaire, Lemke, Look, Luther, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH;

Mitchell JE; Morrison, Nickerson, O'Gara, O'Neal, Ott, Peavey, Plowman, Poulin, Pouliot, Povich, Reed, G.; Rice, Richardson, Ricker, Robichaud, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Truman, Tyler, Underwood, Volenik, Watson, Wheeler, Whitcomb, Winn, Winsor, The Speaker.

ABSENT - Carleton, Cloutier, Dexter, Driscoll, Dunn, Jacques, Kneeland, Nadeau, Poirier, Tuttle, Yackobitz.

Yes, 43; No, 97; Absent, 11; Excused, 0.

43 having voted in the affirmative and 97 voted in the negative, with 11 being absent, the motion to indefinitely postpone the Bill and all accompanying papers was not accepted.

Subsequently, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-251).

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 Final Passage. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 217

YEA - Adams, Ahearne, Aikman, Ault, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Davidson, Desmond, Donnelly, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gould, Green, Greenlaw, Hartnett, Hatch, Heeschen, Johnson, Jones, K.; Jones, S.; Joseph, Joyner, Keane, Kerr, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Lemont, Look, Luther, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Nickerson, O'Gara, O'Neal, Ott, Peavey, Plowman, Poulin, Pouliot, Povich, Richardson, Ricker, Robichaud, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Truman, Tufts, Tuttle, Tyler, Volenik, Watson, Wheeler, Whitcomb, Winn, Winsor, The Speaker.

NAY - Barth, Birney, Buck, Cameron, Campbell, Carleton, Damren, DiPietro, Gooley, Guerrette, Heino, Hichborn, Joy, Joyce, Labrecque, Lane, Layton, Libby JD; Libby JL; Lindahl, Lovett, Lumbra, Madore, Marshall, Marvin, Murphy, Nass, Pendleton, Perkins, Pinkham, Reed, W.; Rice, Rosebush, Savage, Stedman, Underwood, Vigue, Waterhouse, Winglass.

ABSENT - Dexter, Dunn, Jacques, Kneeland, Nadeau, Paul, Poirier, Reed, G.; Yackobitz.

Yes, 103; No, 39; Absent, 9; Excused, 0.

103 having voted in the affirmative and 39 voted in the negative, with 9 being absent, a two-thirds vote of members present being necessary, this Resolve was finally passed, signed by the Speaker and sent to the Senate.

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

On motion of Representative GWADOSKY of Fairfield the House recessed until the sound of the bell.

(After Recess)

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

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Clarify the Animal Welfare Laws and Euthanasia Procedures Performed by Certain Officials" (S.P. 497) (L.D. 1356) (C. "A" S-298)

Was reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Paper was Passed to be Engrossed as Amended in concurrence.

Bill "An Act to Amend Certain Laws Affecting the Department of Environmental Protection" (EMERGENCY) (H.P. 989) (L.D. 1397) (C. "A" H-552)

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

On motion of Representative GOULD of Greenville was set aside.

The same Representative presented House Amendment "A" (H-549) which was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-552) and House Amendment "A" (H-549) and sent up for concurrence.

Bill "An Act to Strengthen the Governmental Ethics and Campaign Reports and Finances Laws" (H.P. 1029) (L.D. 1444) (C. "A" H-572)

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

On motion of Representative CAMERON of Rumford was set aside.

The same Representative presented House Amendment "A" (H-587) which was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-572) and House Amendment "A" (H-587) and sent up for concurrence.

SENATE PAPERS

Bill "An Act to Create the Workers' Compensation Residual Market Deficit Resolution and Recovery Act" (EMERGENCY) (S.P. 594) (L.D. 1578) (Governor's Bill)

Came from the Senate, under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed as amended by Senate Amendment "A" (S-305).

(The Committee on Reference of Bills had suggested reference to the Committee on **Banking and Insurance**.)

Under suspension of the rules, the Bill was read once without reference to a Committee. Senate Amendment "A" (S-305) was read by the Clerk and adopted. Under further suspension of the rules, the Bill was read a second time and passed to be engrossed as amended by Senate Amendment "A" (S-305) in concurrence.

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

ENACTORS

Emergency Measure

An Act to Correct Errors and Inconsistencies with Regard to the Restructuring of Maine Government to Conform with the Provisions of the Texas Compact (S.P. 383) (L.D. 1060) (C. "A" S-286)

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. 111 voted in favor of the same and 6 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Permit a One-time Transfer of Retained Funds for Community Corrections Programs (H.P. 1095) (L.D. 1539) (H. "C" H-509)

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. 115 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.

Emergency Measure

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

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 6 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

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

An Act to Increase Access to Primary Care Physician Services in Maine (H.P. 1063) (L.D. 1498) (C. "A" H-429; H. "A" H-546)

Resolve, Authorizing the Sale of Certain Property in Connor (H.P. 1129) (L.D. 1574) (Governor's Bill) (S. "B" S-289)

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.

Resolve, to Require the Brookton Elementary School to be Used as a Community Center for Northern Washington County (H.P. 1131) (L.D. 1576)

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

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

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

On further motion of the same Representative, the House reconsidered its action whereby L.D. 1576 was passed to be engrossed.

The same Representative presented House Amendment "A" (H-559) which was read by the Clerk.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: For those of you who are not aware, Brookton is an unorganized territory and in which the state maintained an elementary school. That school has now been closed by the Department of Education. The Community in the area has requested that this be turned over to non-profit organization so that they can operate it as a community center. Washington County does not want to acquire ownership and agrees with the transfer.

What the amendment will do basically is to require that the institution that takes over the school will be a non-profit corporation under 501C3 designation and can not be a profit making entity.

House Amendment "A" was adopted.

The Resolve was passed to be engrossed as amended by House Amendment "A" (H-559) in non-concurrence and sent up for concurrence. 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 19, 1995 (Till Later Today) by Representative JACQUES of Waterville.

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

Subsequently, the Majority **"Ought Not to Pass"** Report was accepted in concurrence.

An Act to Amend the Maine Civil Rights Act (H.P. 866) (L.D. 1216) (C. "A" H-361)

TABLED - June 14, 1995 by Representative UNDERWOOD of Oxford.

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

The House voted to Reconsider.

On motion of Representative WATERHOUSE of Bridgton, rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 1216 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-361) was adopted.

The same Representative presented House Amendment "A" (H-536) to Committee Amendment "A" (H-361) which was read by the Clerk.

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

Representative WATERHOUSE: Mr. Speaker, Men and Women of the House: On our committee, in the Criminal Justice Committee, every time we had a bill come down before us that had to deal with any of the laws or changing the laws, one of the first things we did was to look to see if there are any statutes on

the books that are already on the books to cover these situations. In the bill that this amendment applies to, all those violations are already on statutes and all those violations are already covered in Title 5 section 4681. Violations of constitutional rights and also state statutes in the criminal code 17-A, chapter 21, in section 501, in particular, is disorderly conduct. Section 505 is obstruction of public ways, 506 is harassment by telephone. They're all covered by state statutes. So basically, what the committee amendment did was take these present crimes that are on the criminal statutes and made them civil rights violations. What my amendment does is make it comprehensive for everybody and makes a civil rights violation for anybody that has these violations done against them. I think the law should be consistent and protect all and basically what this amendment does is it does exactly that.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I ask you in the strongest possible terms to vote against the pending motion and do not vote for this amendment.

This bill has been through 3 votes of this body and represents a unanimous report of all 13 members of the Judiciary Committee. As you know we don't agree on everything. We had a long debate yesterday in which we didn't agree on a bill is before you. The committee bill supported by both the life coalition and the choice coalition and it was negotiated and introduced by the attorney general of this state. Organizations that support the bill as amended by the committee, but do not support any further amendments to this bill, include the Catholic Diocese of Portland, the Christian Civic League Feminist for Life, Maine Choice Coalition, the Maine Medical Associations and other members of the Choice Coalition. I checked with the attorney general's office in terms of the language of this amendment. They have concerns about it because it is not clearly constitutional based on the decisions that we have had already. Where as we know that the amendment adopted by the committee, the committee report, is in fact constitutional. The compromise represented by L.D. 1216 is a very carefully balanced compromise between the rights of people who protest and access to constitutional rights. The provisions of L.D. 1216 apply to all buildings with exception of noise and what this amendment does is it amends the noise provisions to cover all buildings. Right now the bill just addresses hospitals and other health clinics. There's a very good reason for this because the noise provisions are so much more intrusive in terms of people's ability to have people protest and we do have constitutional authority to address hospitals. I would like to read to you very briefly. I don't want to get into a long debate here, but this has been addressed by the U.S. Supreme Court in a decision by Chief Justice Reinquist, and this decision dealt specifically with ordinances involving noise around hospitals and I would like to quote from this decision, Chief Justice Reinquist said, "Hospitals after all are not factories or minor assembly plants. They are hospitals where human ailments are treated. Where patients and relatives alike are often under emotional strain and worry. Where pleasing and comforting patients are principle facets of the day's activity and where the patient and his family need a restful, uncluttered, relaxing and healthful atmosphere. The first amendment does not demand that patients at a medical facility undertake herculean efforts to escape the cacophony of political protest." This is a decision that has upheld what is in our committee amendment. We do not have a similar decision upholding the noise provisions everywhere else. I would like to stress to you again, what is before you in the bill that we have enacted 3 times by vote of this body is something that has been agreed to by people who normally do not agree on any issue that affects in any way the issue of abortion. As you know we had a very long and difficult debate on that subject previously. Just in summary, I would like to say, 6 months ago Bishop Gary of the Portland Diocese convened a group which came to be known as the Common Ground Group. This was in the wake of several shootings as you probably recall in Brooklin, Massachusetts at a Planned Parenthood facility. Many of us were skeptical, and I have to include myself in this, that this group could actually come to any kind of common ground and that there was a point in having people represent the life and choice coalitions getting together and talking. Many of us felt this is such a divisive and difficult issue that there can be no common ground. In fact, there was common ground and the common ground is the bill that we have passed in this body, and passed in the form that is already before you. It is a good bill the way it is. Please do not vote for this amendment. Please oppose the pending motion.

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

Representative WATERHOUSE: Mr. Speaker, Men and Women of the House: I disagree with the good Representative, Representative Treat. This is not, in my estimation, and I would like to see whether she got a finding from the attorney general or just a discussion, these are already violations in criminal statutes that are listed in this bill.

This is not a question of freedom of speech or first amendment rights. You have first amendment rights to peacefully assemble and whatever, but once you go into criminal violations in the code, which are listed in 17-A, you go beyond your first amendment rights. I can not for the life of me think of a reason why your first amendment rights or your civil rights, stop or begin at the entrance of an abortion clinic. They should be comprehensive and for everybody. If these violations listed in criminal statutes, now if you're in violation of 17-A in one of these sections, you can be arrested. You don't have a first amendment right to violate the law and these are already listed in criminal statutes. So if we're going to make them civil rights violations for any certain situations, they should be for everybody. I would say that if a good lawyer could take the committee amendment and take that to Supreme Court and find that this was an unconstitutional bill itself, because it does not apply equally to everybody.

I realize that in health care facilities, they can't get away from the noise, but there's a lot of other people in buildings that also can't get away from noise and they could have health conditions, too. They could have hypertension, They could have a heart condition, whatever, and if you're violating criminal code, and it's a civil rights violation for

one person, it should be a civil rights violation for everybody. I hope you'll support this amendment.

The SPEAKER: The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Mr. Speaker, Ladies and Gentlemen of the House: I don't have the bill right in front of me or the amendment, but I have read both. I was rather alarmed when I read the bill because it seemed to me that the compromise, one, was one that was directed to abortion clinics and protestors outside of abortion clinics and we all have come to an agreement that's a good bill and it's passed thus far, then this amendment, I feel, makes it a better bill because it extends the same rights to everyone else and I urge you to adopt the amendment. We're not saying the other is a bad bill, we just want to make it more equitable and a better bill. Thank you.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: I would urge you to oppose the adoption of the House amendment. This bill was hard worked long before it came to us. We looked it over. There is a difference between demonstrating outside of a health care facility and outside of the state house.

I still remember driving through Lewiston, pass St. Mary's and seeing "quiet, hospital zone." It impressed me then and it impresses me now when I drive by other hospitals. I don't think that it would have been fair for us to walk out on the balcony and tell state employees yesterday that they had no right to be here, because I have hypertension, or I have a heart problem, but I do think that if I'm in my doctor's office having a procedure done, a surgical procedure, I don't care if they are removing a mole off my finger, I really don't want the doctor to slip, I really don't want the doctor to be distracted. That is why we put this in, because the noise level does get to that detrimental level. I respect the opinion of the persons behind me who would like to have this extended, and I can understand why, but I also very much understand why this was put in and I understand how much hard work went into getting it there and I will be opposing the adoption of this house amendment. Thank you.

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. I find it really remarkable that at this hour we are even debating this issue. This was a unanimous vote of the Judiciary Committee, it went under the hammer three times. It is a good fair piece of legislation, it has a wide range of support that cuts across partisan ideological lines. The good Chair quoted to you the opinion of Chief Justice Rehnquist. I really don't understand why we should be debating this, but I do understand that we should vote against the pending motion and I urge you to do that.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Mr. Speaker, Men and Women of the House: I believe that this amendment goes too far. The problem which brought this issue before the legislature was the escalating tensions in the on going controversy and debate over those who share a pro life philosophy and those who share pro choice.

This bill, as is presently amended and now before us, as has been indicated by Representative Treat, has been narrowly crafted and carefully designed to address the concerns on both sides of this debate. As you also just heard from Representative Lemke, it was the unanimous decision and report of the committee that it pass.

The proposed amendment that has now been placed before you tries to, I think, extend the bill and address a problem that doesn't exist. We're not talking about situations here, about demonstrations on college campuses, or before a nuclear power plant, or before some military base, where I think there is a different agenda on those who are conducting the demonstration. We are, however, with this bill, as it's presently before you, talking about extremely high emotional tensions that have brought about some of the tragic results that have just been mentioned. In my opinion, often times and perhaps maybe most of time, there's usually an underlying agenda with the demonstrations in front of abortion clinics, that involve more than just expressing opinion. Often times, there's an agenda of coercion, or intimidation, or just plain discouragement.

The bill in the present form, I think, provides a good balance between the constitutional rights of free expression, free assembly, and the need to address. What I think we can all admit and recognize it's a dangerous conduct that has escalated itself to often into the tragic violence and circumstances we hear about on the six o'clock news. I think adopting this proposed amendment would open up serious questions of constitutionality and other areas. I think, we need to preserve as places we can freely assemble and exercise our freedom of speech and one that comes to mind is our just recent demonstration and assembly before this state house just yesterday. I would hate to think that we would be involved in protecting rights, or suggesting that somebody's health may have been jeopardized or affected by the gathering before the state house steps. I don't see the need to go any further and I think we are just opening up Pandora's box for problems, enacting a bill that I think has been carefully crafted and deserves our passage. Thank you.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House: I think we are missing a key point in this whole discussion. We're not talking about peaceful assembly. We're not talking about peaceful demonstrating, and I want to get on the record that state workers demonstrating in front of the state house yesterday were perfectly within their first amendment rights. They were not in violation of code 17-A, in the criminal code. This would only take place when you're in violation of the code. Now you're trying to tell me that if somebody's violating the code in 17-A for disorderly conduct that they're exempt. This has nothing to do with the first amendment right of freedom of speech and demonstrating. You didn't see the police out here yesterday arresting state workers for demonstrating, because they were not in violation of the criminal code. What we have listed in the committee amendment is a violation of criminal code statutes. They're already crimes. There's no contesting that. It's not a first amendment demonstration right conflict. Now if you want to

take criminal statutes out of the book and make them civil rights violations for one set of people and not civil rights violations for another set of people, that is not equality in law. First you have to have a violation of the law. Peaceful demonstrating outside a college campus, outside the state house, is not in violation of the criminal code of the state. These violations listed in the committee amendment are. There's the difference, folks. A rational person can see that. We're picking out one group of people, let's make it for everybody. It has nothing to do with first amendment rights. If you're going beyond your first amendment rights, you'll get arrested in the code in 17-A. Please support this amendment. Thank you.

Representative WATSON of Farmingdale requested a roll call on adoption of House Amendment "A" (H-536) to Committee Amendment "A" (H-361).

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 Bangor, Representative Lumbra.

Representative LUMBRA: Mr. Speaker, Men and Women of the House: I rise today in support of this amendment, but also in support of the bill. I am very pleased to hear that the pro choice and pro life people came together and found some common ground. I think that's great, but I don't look at this bill as a pro life, pro choice bill, I look at it as just a civil rights bill and I wish we could separate ourselves from the pro life, pro choice issue at this point since that is so diversive. The amendment here, I think, is a good one. The amendment to the original bill that we passed simply says that we're having added protection. The amendment broadens the original bill by making the added protection applicable in all contexts rather than only to civil rights violations that physician offices and health clinics that provide reproductive service. Then it goes on and where it broadens it is noise. The violation is if there is noise being made, the person making the noise has the intent to interfere with another person's right. That's simply what it says, with another person's right. So if we're going to do that, and we're going to say that we are going to put into law that we want some restrictions of noise being made outside of a reproductive clinic or health care clinic because of noise, and that may interfere with somebody else's right, I think churches have that right, I think many other buildings have that same right, that they shouldn't also be interfered with and all Representative Waterhouse's amendment says is it simply takes and changes two words. It changes the word from reproductive facility or health care facility to building. It's as simple as that. I think that's just a fair amendment and I do think it adds to this bill. Thank you.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: The real issue here, like so many of the issues we face, what is the problem we're trying to solve? As the good House Chair of the Judiciary Committee, Representative Treat said many months ago a unique coalition, which had so long been on opposite sides of an issue decided to put down the rhetoric and the signs for just a moment to deal with a problem in our society and that was escalating violence in front of abortion clinics, health clinics, call them what you want, I'm not going to argue that point. We all know there was a problem arising in this country and given the deeply emotional and personal and moral nature of this issue, emotions were running very, very high and violence was starting to crop up. In an effort to sort of defuse this situation, this unique group of people, and I know you've heard it over and over again how many people were involved, but this the Maine Right to Life Committee, the Catholic Diocese, the Christian Civic League of Maine, Feminist for Life, a pro-choice Coalition involving business and professional women, the Family Planning Association, Maine Civil Liberties Union Planned Parenthood, and the Maine's Women's Lobby, these are not people who sit down to the table and agree on things too often and yet they were able to do it with this bill. The main difference between the committee's report and this proposed amendment is what we have and the committee report has withstood constitutional challenge. We know that it will work to defuse dangerous, potentially violent situations.

Representative Waterhouse, well intentioned as he is, and he may have a very good amendment, something that warrants further consideration, but we don't know it will withstand constitutional challenge. At the moment, we need that kind of law, we need to have it in effect so we can defuse potentially violent situations now, not waiting to have a court case to decide if we're okay.

I'm going to tell you something that I've only allowed to a few other members. I had a certain degree of ambivalence about this bill in committee. There are some serious freedom of speech issues and freedom of assemblies and things like that, well also I felt well this is Maine, it's not Massachusetts, and we won't have such situations. We are after all often rated the most safe state in the nation. I will admit that I even told the sponsor of this amendment that I had a fair degree of you know it could go either way. Then last Friday we had two very emotional issues regarding abortion debate on the floor of this House, you recall the 24 hour waiting period and the parental notification bill. I sat out the first and I think I spoke with a great deal of enthusiasm on the latter, after a long time arriving at that decision. I knew it wasn't going to be the most popular thing to say, because it's an emotional issue. I'll tell you what happened to me later on that afternoon, as I was intending to leave this House, walking down the glass, a member of this House stood and blocked my path. I went to step aside and they moved and again blocked my path, I went to step to the other side and again they moved to block my path, all the while muttering something which in the moment of tension I really didn't understand except that they were extremely displeased with what I had said on the floor of the House this morning regarding the abortion issues and that they never thought they would see the day and on, and on and on they rambled. I won't tell you what I said to this person, because it would be stricken from the record, but suddenly I realized what we are dealing with here. It's occasionally given the nature of

these issues, people will step over the line, will go too far. They won't allow your opinion to be expressed without getting in the last word, without trying to intimidate you or trying to block you. Suddenly my ambivalence on this bill just evaporated. I think this is a very good bill and I think this is a very bad amendment. I hope you will object the amendment, I hope you will go on to pass the bill.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House: I disagree with my good friend and fellow Representative, Representative Hartnett. I think this amendment is constitutional. I think it would stand the test of constitutionality. It has the consistency of law. Now if you read the amendment and I strongly believe in the original committee amendment, I think it is a real good bill. I don't think anybody has a right to block anybody's entrance to a building. I don't think anybody has the right to make threatening phone calls and all the rest of the violations that are listed in the committee amendment. This does expand it, but it only expands it for the following reasons: you're not allowed to jeopardize the health of the person in a building, jeopardize the health, or to interfere with the exercise or enjoyment by any person in this building of rights secured by United States Constitution or the laws of the United States or rights secured by the Constitution of Maine or the laws of the state. Now if you think that other people have the right to preempt your rights beyond the sanctions of an abortion clinic and I have no problem with the laws restricting demonstrators that go beyond their bounds. I'm 100 percent for it and anybody who was on the Criminal Justice Committee with me can tell you, I'm not soft on crime. I'm very tough on crime. This is not an attempt to soften the original bill. This is not an attempt to go after somebody else's constitutional right of free speech or peaceful assembly. You can not tell me that there has not been other situations in other buildings, in other occupations when people have violated somebody else's civil rights under these statutes. Like I said, when you read the amendment, all it is is protecting your constitutional rights. It has nothing to do with freedom of speech or demonstrations. I don't think any lawyer could look at this and get this out of this. They have to be violating your constitutional right in the United States Constitution or the State Constitution. If they are not doing this, this bill is not going to affect them. Thank you.

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

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

ROLL CALL NO. 218

YEA - Ahearne, Buck, Clark, Clukey, Driscoll, Dunn, Gerry, Gieringer, Guerrette, Joy, Keane, Lane, Layton, Look, Lumbra, Marshall, Meres, Murphy, Pinkham, Pouliot, Rice, Stedman, Tufts, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb.

NAY - Adams, Aikman, Ault, Bailey, Barth, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Campbell, Carleton, Chartrand, Chase, Chick, Chizmar, Cloutier, Cross, Daggett, Damren, Davidson, Desmond, Donnelly, Dore, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gooley, Gould, Green, Greenlaw, Hartnett, Hatch, Heeschen, Heino, Hichborn, Johnson, Jones, K.; Jones, S.; Joseph, Joyce, Joyner, Kerr, Kilkelly, Kontos, Labrecque, LaFountain, Lemaire, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Lovett, Luther, Madore, Martin, Marvin, Mayo, McAlevey, McElroy, Mitchell EH; Mitchell JE; Morrison, Nass, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Plowman, Poulin, Povich, Reed, G.; Reed, W.; Richardson, Ricker, Robichaud, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Truman, Tuttle, Tyler, Volenik, Watson, Winglass, Winn, Winsor, The Speaker.

ABSENT - Birney, Dexter, DiPietro, Jacques, Kneeland, Nadeau, Poirier, Rotondi, Yackobitz.

Yes, 28; No, 114; Absent, 9; Excused, 0.

28 having voted in the affirmative and 114 voted in the negative, with 9 being absent, House Amendment "A' (H-536) to Committee Amendment "A" (H-361) was not adopted.

Subsequently, Committee Amendment "A" (H-361) was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-361) in concurrence.

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

REPORTS OF COMMITTEES

Ought to Pass Pursuant to Joint Order (H.P. 582)

Representative SAXL from the Committee on **State and Local Government** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1995 (EMERGENCY) (H.P. 1137) (L.D. 1580) reporting **"Ought to Pass"** Pursuant to Joint Order (H.P. 582)

Report was read and accepted. The Resolve was read once.

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

The Resolve was passed to be engrossed and sent up for concurrence. Ordered sent forthwith.

On motion of Representative CLOUTIER of South Portland, the House recessed until 6:45 p.m.

(After Recess)

The House was called to order by the Speaker.

HOUSE DIVIDED REPORT - Majority (8) **"Ought Not to Pass"** - Minority (4) **"Ought to Pass"** as amended by Committee Amendment "A" (H-355) - Committee on **Legal and Veterans Affairs** on Resolve, Authorizing Glen Greenhalgh to Sue the State of Maine and the Department of Human Services (H.P. 786) (L.D. 1103)
TABLED - June 15, 1995 (Till Later Today) by Representative CARLETON of Wells.
PENDING - Motion of Representative NADEAU of Saco to accept the Majority **"Ought Not to Pass"** Report.

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

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: During this debate, I'm going to refrain from using any other of the family members' names other than Glen Greenhalgh's name to protect the privacy of those individuals. I am going to take you through, briefly through, the marriage of Glen Greenhalgh and his wife because that's the whole issue of this debate tonight.

During the early 80's, Glen Greenhalgh married a young lady from the Machias area who had a six year old child. Over the next three years, they had two children of their own. One at that time was age three and one was an infant. Neither one of these children had been circumcised. Shortly after the newborn was born, the mother's own son came down with Hodgkin's disease. She went to Portland, lived with her mother and father down there, while her own son was in the hospital. Glen, who had played a very important father role all the way through the first child's raising, was left to bring up these two children. One was an infant and one was three years old. During the time after this, during the next two and a half years, the child with Hodgkins disease was in remission, moved home and then the mother decided she wanted to further her education. At some point she moved to Orono, took an apartment to continue her education. Glen was left then with three children, two of his own, one of his wife's. He raised those children and finally the frustration of being the only parent, he decided to file for divorce. For a whole year they went through a very ugly divorce. He was in court five times and finally the court awarded joint custody. On the very first visit that Glen had his children after the divorce, he rented a video to teach his kids on good touching, bad touching so that when they were not in his custody or with him that they would know to talk to somebody if something like this should happen. On that very first visit, when the children were returned to the mother, she went directly to Human Services and from that day until this, he has not had custody of those children. She has used the Human Services to gain custody of those children and ultimately going through the court process. Because of lack of funds, he represented himself, and the court ultimately under the direction of Human Services awarded him visitations, supervised visitations. The visitations were only to be granted if the mother agreed to the person who was going to be supervising the visit. Human Services washed their hands of this issue at that time and since then he's had almost no contact with those children. For the last two years, he hasn't seen those children.

I want to tell you that the state police did a very thorough investigation of this when this situation took place. At that time he offered to take a polygraph test, he wasn't offered the test. The state police just recently closed out the investigation because there was no evidence to prosecute. Since I've been pursuing this issue, I have asked the state police if they would run him on a polygraph because he's still willing to take a polygraph test to show that he is innocent. The state police basically said if they got in a position where they were running polygraph tests to prove a person's innocence, they would just be overwhelmed, they wouldn't be able to do it. I understand, they couldn't get in a position like that. I checked with a private polygraph operator who wants $800 to run a polygraph test. He can't afford $800 for a polygraph test.

I'm here today, since we've given Human Services the added flexibility to protect children's rights and I don't object to that at all, since we've given Human Services the authority to use out-of-court statements of juveniles, third-party statements in court, we also authorize the lowest standard of evidence in child custody cases. I feel that we have left the innocent parents and maybe there is only a few, but we've left those innocent parents without a vehicle to prove their innocence or to get reunited with their families. I want to read just a short segment of a report issued by Jesse Gunther, who is a very notable judge in this state. This case took place basically at the same time during the late 80's as the Glen Greenhalgh case and a portion of this case, I'll just start here, "The interview was conducted in a small office in the Headstart site and lasted approximately an hour and a half. The worker was accompanied by the chief of police of Lincoln who was also a participant in the interview. On numerous occasions the child started crying and requested to leave. Each time she was distracted with toys and the questioning was suspending for awhile. At trial, the workers testified that she and the Lincoln police chief engaged in a good cop, bad cop routine of interview." Ladies and gentlemen, let me tell you, that isn't an interview, that's an interrogation and that's a very skillful art of interrogation and if you think that a police chief or a police officer and a skilled trained counselor can't get a six year old child to tell you what you want to hear by using the good cop, bad cop routine, you've got another thought coming, because what you do is you promise the person a reward if he tells you what you want to hear, or you promise punishment if they don't tell you what you want to hear. As you go back and forth with this good cop, bad cop routine, they wear down and they end up telling you what you want to hear, so that you don't punish them. I say that if our Human Services agency is using these techniques of interrogations and calling them interviews, we as a legislature have to provide an outlet for these parents who are subjected to the Human Services being used by their spouse in divorce situations to remove the children from parents, the father's, generally, in this situation the father. We have to do something to protect those rights of those fathers. Last Sunday was six years since his children have been gone. His oldest son's birthday was on Father's Day. Six years ago, his oldest son was taken away, he's twelve years old now. Can you imagine being a parent or losing your children with no possible way to prove that you're innocent, no possible way of getting your children back. I feel that we owe this gentlemen the right to sue the state and to prove in another court that he was wronged by this state. If he doesn't prove that then we haven't lost a thing, but if he

does prove that, and I feel confident that he will, then I think that we owe that gentlemen that right and I think Human Services, at that point, should try to reunite this father with his children. I thank you very much for listening.

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

Representative GAMACHE: Mr. Speaker, Men and Women of the House: Representative Bailey has done an excellent job in presenting the case for Mr. Greenhalgh. In doing so, he hesitated to say with some clarity that there were allegations of improper relationships with the children. I sat with the Legal Affairs Committee and heard this two years ago at extensive hearings on it and again this year, where I voted with the majority "Ought Not to Pass." Not because I have any animosity to Mr. Greenhalgh, or that I in any way feel that he is guilty. That is not for me and it is not for the committee, because the committee made no judgment as of that. We did agree and conclude that he had had ample opportunity in the court system to clear his name, or clear the case. This is an extremely difficult thing, and I feel sorry for Mr. Greenhalgh, whether guilty or innocent because he is in a serious trap. The only thing that I can tell you is that we as a committee, this time and two years ago in complete good faith and with sympathy for Mr. Greenhalgh agreed that his interest had been served. That's all I can tell you, thank you.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: It was not that long ago that I got up to speak on a similar situation and I thank the members of this House for accepting the minority "Ought to Pass" Report.

It's very difficult for a person to go in when they are charged, be it false or true, for them to be able to prove a case. First of all, you go in, if you appeal, you only appeal what has taken place before you, you're not allowed to offer any new information in that case. The only way that this man can find out whether he has a case or whether he's going to be proven innocent or guilty is if he has a chance to sue the state and I urge you to give the same support to Representative Bailey on this bill as you did to me on mine. In the other body, my bill came within one vote of passing, and the good Senator Michaud from East Millinocket waged a very difficult, one sided uphill battle in this to bring it within that one vote. I certainly urge your support for Representative Bailey on this bill. Thank you.

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

Representative TRUE: Mr. Speaker, Men and Women of the House: I too, urge you to defeat the motion "Ought Not to Pass" and go on to support the "Ought to Pass" Report. Now why should we support this suit presented to the Committee by Mr. Greenhalgh? As a three year member of Veteran's and Legal Affairs, I too, heard this case two years ago and at that time I voted on the prevailing side of the Majority "Ought Not to Pass." Since that time, I have heard many such Resolves to sue the state and the Department of Human Services and rarely did I support such a case. However, I hope that you have read Mr. Greenhalgh's dilemma in the paper Representative Bailey passed out to all of us and I believe it was passed out again this evening. I do think it necessary to create a litany of reasons why, perhaps, the door should be open for a legal suit. However, I do want to list only three reasons, as I do not want to repeat things that have been said by the previous speakers. First, I want to say that I changed my mind in two years for some of the things which I heard this time around. Maybe it was presented and maybe I wasn't quite as attentive two years ago as I was this year. I do not want to blame and place the blame on anyone's doorstep, however, again I feel because of the number of cases coming before the committee, something needs to be done and if it's a case like this, than so be it, to perhaps show that we have got to have better procedural methods of operation as far as these cases are concerned. Therefore, I will quickly give you the three reasons that seem to strike me this time around. First, Mr. Greenhalgh seemed to fulfill his responsibilities as a father by picking up the pieces of a broken, fragile and vitriolic marriage. I have believed for some time that an acrimonious divorce between a man and his wife should not cause any type of riff between either the parents with their children.

I remember my mother telling me that a person has many loves. However, the trick is to keep them separated always in such a way that your life and those that you love are kept on an even keel, thus creating an internal happiness for everyone involved. Of course we all know that this is not always possible. In listening to the case and I will term the so called judge shopping and I believe that that should be studied as to why this would happen. That just when the case seemed to be turning in such a way that perhaps there could have been several of the issues settled that another judge was brought in and involved. Also, why during the separation did the health of these children abruptly change? For these reasons I ask you to defeat the motion before us and to go on to allow the minority "Ought to Pass" Report. I thank you.

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

Representative Labrecque: Mr. Speaker, Ladies and Gentlemen of the House: This is another bill where an individual is asking permission to sue the state. We need to set aside the emotional issue which is extremely difficult and we need to make a determination, who is the state? If you believe that you and I and indeed, Mr. Greenhalgh, are the state, then how do you justify suing yourself? I urge you to accept the "Ought Not to Pass" Report.

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

Representative BUNKER: Mr. Speaker, Men and Women of the House: I'd urge you to vote against the Majority "Ought Not to Pass" and go ahead and pass the Minority Report. I, too, am familiar with this subject and the persons involved in this case and I don't stand here before you to plead a case for Mr. Greenhalgh, personally, but I do think that when we as a body and we as a government are ultimately responsible for the fragile lives that we govern, that there has got to be a set of checks and balances. Unfortunately in these real serious cases, we tend to err on the side of the child, and rightfully so, but there has got to be times, ladies and gentlemen, that we hold some people in this imperfect system accountable so we can make this system work. If we don't hold these people

accountable, occasionally, than we allow the system to leave its normal course to lean in one direction or the other. I think everybody in this body realizes that this system is set up to protect the child and do right. Occasionally we waiver from that in order to keep people on the true path, sometimes we have to hold them accountable and I'd ask you to do that in this case. Thank you.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I'm somewhat reluctant to interject myself into this, but with the Committee Chair, the good Representative, Representative Nadeau, not able to be here and having chaired the committee last year which heard this bill, I'd just like to try to add some factual information in a somewhat general way which supports the "Ought Not to Pass" which is how the bill was disposed of previously.

There's a lot of emotion involved in these kinds of cases and sometimes it's very difficult to move beyond that and look at the facts as they are presented. I'm looking at the information that's submitted by Mr. Greenhalgh, and I will tell you, I spoke with him on numerous occasions and last year the committee received numerous pieces of information that spoke to what a wonderful person Mr. Greenhalgh was and spoke about him personally, but many of the letters of reference which he had sent to us really were unrelated to the issue that was here.

I'm just going to address a couple of things. One of the issues that was raised and the committee did look at this very carefully, last time. I'm not sure what things have changed between then and now. We had an executive session where we talked at length with DHS in private, because the facts of these kinds of cases are sometimes very difficult and are inappropriate to be given in a public way. We spent a good of time with this, as a matter of fact, Mr. Greenhalgh called me several times during the summer, after the session was over, to talk with me about the case. The committee was very concerned that Mr. Greenhalgh not feel that the dispensation of the bill, the "Ought Not to Pass," was any kind of reflection on his character, the kind of person he was. We sent a letter to him that addressed that and addressed the facts of the case. I'm not sure if that letter was brought out this year or not, but we were very careful in the way we worded that, to try to help him understand the decisions that we make that are factual and have nothing to do with the emotional aspects surrounding divorce, accusations of child sex abuse, and things of that nature.

One of the things that he alleges in this, on page three, is that the caseworker was new to the job and on a temporary permit to work. We looked into that, we asked the DHS to respond to that. The caseworker, in fact, had recently moved here from another state, had had fifteen years experience in the business and came very highly recommended and with good references. There was absolutely no reason to believe that this caseworker did not have an incredible amount of experience and ability to deal with this case. So I would question, I think this raises the suspicion the way it is written, but that was an issue the committee looked very carefully at.

Just below that it makes reference to the fact that a guardian ad litem was not available. In the first hearing, my recollection is that is exactly what happened. There was some kind of a mixup the guardian ad litem had not heard about the hearing, did not show up, but was indeed present for all the hearings where things took place after that. It was only the first instance when it came to trial, so that was dispensed with as an issue. It was really not a valid issue.

Then he makes other allegations about judge shopping. We looked into that, and in fact, he was in the process of appealing that, because he felt there was shopping around. I'm sure the attorneys that are here could address this better than I, but there was no evidence that there was anything like judge shopping. There are certain kinds of cases which go to different types of courts, certain judges hear certain kinds of cases. We have in this particular instance, there were several different issues going on, there was a divorce issue, there was a custody, and there was the potential for a criminal case for child abuse. Because he felt that judge shopping was an issue, he appealed it, but he didn't win that, because there was no decision that there was a problem with judge shopping.

My recollection is, that in fact, Mr. Greenhalgh had legal representation throughout this entire time. He had an attorney to look out for his rights. When DHS takes custody, it's not an isolated instance where a few people in a back room say, "hey, let's go get custody." It's something that has to be proved in a court of law. It has to be proved, a judge approves that decision. It's not some whimsical idea that doesn't have to have judicial review, this is a very serious step.

Part of the confusion in this case is that there was some consideration of charging him criminally, but there was not evidence and that frequently happens in these kinds of cases. It's kind of like your word against my word and getting children to be able to be competent witnesses, so if you don't feel you can get a criminal conviction, the standard for a criminal conviction and the standard for taking children away, those are two different standards. I haven't looked at this recently, but there is a difference in the standard. Those are two different issues, but there were very serious concerns, there was a lot of reason to believe that these kids should not be given to the father. I want to assure you, I don't know how it was looked at this year, but we really delved into this case at great length and I do hope that you will support the "Ought Not to Pass."

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

The SPEAKER: The pending question before the House is the motion to accept the Majority **"Ought Not to Pass"** Report.

A vote of the House was taken. 37 voted in favor of the same and 65 against, the Majority **"Ought Not to Pass"** Report was not accepted.

Subsequently, the Minority **"Ought to Pass"** as amended Report was accepted. The Bill was read once. Committee Amendment "A" (H-355) was read by the Clerk and adopted. The Bill was assigned for second reading Friday, June 23, 1995.

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

ENACTORS
Emergency Measure

An Act to Create the Workers' Compensation Residual Market Deficit Resolution and Recovery Act (S.P. 594) (L.D. 1578) (Governor's Bill) (S. "A" S-305)

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

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

Representative CHASE: Mr. Speaker, Men and Women of the House: I only rise to explain, I hope briefly, what it is we are enacting. Others will be able to explain better than I, no doubt.

In brief, we have had, as you have no doubt heard, a problem with the worker's comp residual market. You have probably heard about this from your employers, who are paying a surcharge currently of 9.5 percent on their worker's comp premiums. There have been to date no equivalent payment into the worker's comp pool by the insurers, because the insurers have been suing us. Suing against the assessments that they should pay. Those suits have been heard and they have been appealed and my understanding is that there would soon be a decision. An agreement has been made between representatives of insurers and representatives of employers to: one, have the insurers drop the suits; two, have the insurers pay 65 million dollars into the pool by January 1st, 1996; three, to drop the surcharge that small employers will be paying on their worker's comp premiums from 9.5 to 6.23 and other provisions. I'm giving you the very basic outline, I'm sure my House chair can fill in and give you better detail.

I'm standing to tell you this because some of you were in this body years ago when things came to a screeching halt on the subject of worker's comp and when the state shutdown on the subject of worker's comp. I was a state employee and sitting in the gallery when things came to a screeching halt, so I was certainly concerned. While I can tell you, as honestly as I've said anything on this floor, that I was skeptical, that I remain skeptical of the motivation behind this settlement. I endorsed the settlement as did our entire committee. As you remember from a couple of hours ago, that we engrossed this bill without reference to committee, but as the Speaker mentioned off the record, the committee, in fact, has been meeting. We've met four or five times over this bill and we have unanimously agreed to endorse the bill as presented to us by the Governor.

I wanted to stand and assure those of you who may share my skepticism about insurers on the subject of worker's compensation that I, for one, think that this is a reasonable settlement. I think it would be very nice to put the "Fresh Start" lawsuits well behind us, that I think it is a good thing for our employers, particularly our small employers, who can not afford to be self insured for comp to be paying a 6.32 percent surcharge for the next eight years, and that's in the law as well, it's guaranteed for eight years, rather than 9.5 plus anything that the superintendent determines to be appropriate each year. So with that, I will urge you to support the enactment of this bill and I thank you for your time and your attention.

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

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

The SPEAKER: The Representative may pose his question.

Representative MARTIN: What is the total amount that we are agreeing to? One, in terms of what will the employers have to pay? Two, what is going to be picked up by the insurance carriers? Three, why are we doing this before the courts are deciding on the issue?

The SPEAKER: The Representative from Eagle Lake, Representative Martin has posed a series of questions through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Mr. Speaker, Men and Women of the House: In reference to specifically what's the amount, we're looking at 220 million dollars, that's the total of the amount. 58.5 million dollars will be coming from the primary insured, the people that are involved in administering the funds, the minor carriers will cover the remainder, to $65 million, which is 58.5 million against 6.5 million, give me a total of 65 million. The employers will pay the difference, 110 million dollars. The surcharge, which is presently 9.5 percent will be reduced because of this, to 6.32. This will be averaged out over a period of eight to ten years, and the reason being eight to ten years, because of when we are doing away with the tail, what is the tail of worker's comp. We're not sure where the tail will end. Under the legislation, the final deficit, the tail is clearly allocated 70 percent, 30 percent, between employers and insurers, until the last claim is paid. This is going to finalize the problem that we've had, the weight around the businesses of the State of Maine which has held down the job creation aspect, the desire for people not to be in the State of Maine, because of this fear of not knowing how much you owe, how much was due. We now are going to finalize this and it is going to be settled once and for all.

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

Representative MARTIN: I didn't get a response for my last question. Why not let the courts reach that decision?

The SPEAKER: The Representative from Eagle Lake, Representative Martin has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: There were three cases, possibly four, pending and with this legislation, it's now become moot that we're not going to be following them because this is going to nullify, make the cases null and void. It's going to take care of the pending legislation.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Gates.

Representative GATES: Mr. Speaker, Men and Women of the House: I guess I would also like to respond to Representative Martin's question.

There are several reasons why this is coming forward now prior to the court's decision. One is, as a lawyer, I guess I would just like to tell you, uncertainty is never greater than right before a judge or jury decides. It is a very appropriate time for a settlement to bring certainty into the situation.

Secondly, even if the law court cases were to be resolved in our favor, the next step would be

rulemaking by the Bureau of Insurance and those rules could also be litigated and meanwhile there's a tremendous cash crisis faced by this pool. So the 65 million dollars offered by the insurance company is up-front money that's going to be paid by January 1, 1996, in the next six months. So it's going to resolve the tremendous cash flow problem that the "Fresh Start" Board has had. Because of where the case is, it's a particularly appropriate time for this settlement and the settlement offered with the up-front money from insurance resolves the cash crisis. Thank you.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: I note, obviously, that a deal negotiated before the court at some times is wise, but I don't find this much of a deal for the employers, it looks like 70 percent to the employers, 30 percent to the carriers. It would seem to me that the deal would have been a little better if it had been 50/50. I'm not sure, because I'm part of MEMIC, as an employer whether or not it's good or not for me, because I can see in effect the potential of the rates dropping for "Fresh Start" from eight to six, roughly, and those figures, and then on the other side of that coin, MEMIC wasn't even around when this problem occurred but they are picking up 45 million dollars of the deal. I just think that we may not have a choice, but I don't like the deal, because I think it smells.

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

Representative SAXL: Mr. Speaker, Men and Women of the House: No settlement is perfect. No deal that has been hard negotiated from many sides is the very best deal that anybody wants to have and we think that this is a darn good deal. We've worked long and hard with members of the insurance community, with members from the employee community, with members of labor, and with people of many different interests. The money, certainly, first of all, is not going to come from MEMIC. MEMIC doesn't have 45 million dollars in this equation, at all actually, something called MEGA, the Maine Insurance Guarantee Association, which is going to have assessments, including all of these insurance groups, is going to pay that piece of it.

This is a tough bill, and a tough negotiation but it's a good bill and it's not 70/30 employers, employees split, that happens if the deficit exceeds the expectations of everybody and it goes over 220 million dollars. What we have here is a bill, a lot of hard questions have been asked and a lot of accountability has been brought in and the playing field for employers has been substantially leveled and the management of the pool. We think it's a pretty good deal and I would urge you to do the best thing for hard working people and employers in the State of Maine and help us bring certainty to them and their worker's compensation rates and lock in their surcharge at 6.32 percent, so that it doesn't reach double digits. Under a pending Bureau of Insurance hearing, that we would expect to bring it up to double digits. 6.32 percent was brought up to me earlier today by Representative Gould, will go a long way to help him run a successful business and it will go a long way to helping employers throughout the State of Maine be able to work on hiring more people and reviving our economy and making sure our workers are covered also.

I hope you'll accept this tough negotiated deal, put this behind us and get on to the job of making Maine a good place to do business. Thank you very much.

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

Representative CARLETON: Mr. Speaker, Men and Women of the House: I would just like to add my voice to those who are urging support for this bill. I was a member of the Banking and Insurance Committee for four years, as some of you know, dealt with the issue of so called "Fresh Start" and all of the worker's compensation issues. We recognized, when I was on the committee, that there was a tremendous problem with "Fresh Start." There have been surcharges of over nine percent on every employers worker's compensation bill recently, the negotiations which lead to this settlement, I understand, took over a hundred hours, all parties were at the table and they have negotiated an agreement which will reduce by about three percent the surcharge, will provide certainty in the market and I think will help the economy of this state. I can't urge strongly enough that you support this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Marvin.

Representative MARVIN: Mr. Speaker, Ladies and Gentlemen of the House: Back in 1987, as all of you I'm sure are aware there was a worker's compensation crisis in this state. I owned a moving company at that time and I couldn't insure my people, we had a lot of back injuries, you couldn't buy worker's compensation insurance. We got put into a pool, which required us to pay exorbitant rates. All the companies that sold worker's compensation, at that time, were planning to leave the state. The legislature asked those companies to stay and that's how we got this thing called a "Fresh Start." We told them we'd give them a "Fresh Start."

We agreed that during that four year period from 1988 to 1992 that we would work out a situation we'd pay back the money. Well now the insurance people and the business people have gotten together and they've come up with an agreement that they all can live with. The Chamber of Commerce in the State of Maine has signed on, the NFIB has signed on. I don't think that we should be micro managing these people. They know what they are doing, they've said, "Yes, this is a deal we can all live with. This is what we want to do." I think the legislature should be supporting this measure. Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: Everyone involved in this supported it, there was no one opposed to it. One or two questioned it at first and then came aboard, so I urge you to please support this. It's probably the best thing that we can do, or we have done in the last five years to help our businesses in the State of Maine. I urge you to support the pending motion. Thank you.

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

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I truly don't know if this is a good deal or not, I don't think it's micro

managing because I was part of the 1987 and it killed me then and it's still killing me today. As a matter of fact, I said on the floor of this House a few years ago, if we didn't straighten this out, the 18 people who were working for me weren't going to be working for me by December. Guess what, they are not working for me. I think it is very wise that we do question what we do here and find out exactly what is a good deal. So, Mr. Speaker, I would like to pose a question through the Chair to anyone who would care to answer it.

The SPEAKER: The Representative may pose his question.

Representative GOULD: How was this set up, so that who paid what, before this deal took place? Who was paying what? What was the rate?

The SPEAKER: The Representative from , Greenville Representative Gould has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: Are you referring to the four/forty means of paying, how we paid in the past? This is going to improve the previous position. It is now going to be paid in total. We are now going to pay 65 million dollars from the primary insurers. Then we're going to pay the remainder, 110 million dollars from the employers, for a total of 220 million dollars. Prior to this, what was due on the four/forty could have been 260, 280, 300, or 400 million dollars. Nobody knew. What this will do is at least decide this is how much it is and we're going to have it settled once and for all. I hope this answers your question.

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

Representative CHASE: Mr. Speaker, Men and Women of the House: To further answer Representative Gould's question, prior to this time the Superintendent of Insurance determined how much should be paid into the pool for "Fresh Start" charges to make up the deficit. The decisions he made were made up of surcharges on employers and assessments on insurers. The problem is that the insurers have been suing us ever since and have not paid a penny into the pool. However, you as an employer have been paying into the pool. One of the reasons, as Representative Gates and Representative Saxl mentioned that we're interested in this settlement is that the insurers, for whatever reason, have decided voluntarily to come up with the $65 million by January 1. One might say that reason could be the pending court settlement, for whatever reason, they will finally be paying into the pool.

The other issue has to do with the surcharge on employers. If it is presently at 9.5 and we have another decision from the superintendent pending for the current year, we are likely to be looking at a surcharge of up to, an estimate was given to me, of up to 12 percent, maybe between 10 and 12. What we are doing with this agreement is locking in a 6.32 percent surcharge for eight years. So we may see two things happening, men and women of the House, we may actually see our premiums themselves going down, but the other pieces that we won't see a net increase, which some employers have seen, because even if their premiums drop a slight bit, if a surcharge on that premium increases, they are going to pay more. So what we're hoping to see is a decrease for employers in the State of Maine. 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 just want to say that the gentlemanager of the company that I work for, participated representing the NFIB on this task force and she worked very diligently for nine or ten weeks, involved in this negotiation. It isn't the best deal that you could hope for but it's the best deal that could be negotiated at the time. I think that it's a good deal. It's going to allow a lot of small businesses to stay going, where they wouldn't with an increase of up to 12 percent on "Fresh Start." I just think that we should pass this and then move forward.

The SPEAKER: The pending question before the House is passage to be enacted.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and 9 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.

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

TABLED - June 19, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Passage to be Engrossed.

On motion of Representative KERR of Old Orchard Beach, rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-500) was adopted.

On motion of the same Representative, Committee Amendment "A" (H-500) was indefinitely postponed.

The same Representative presented House Amendment "B" (H-580) which was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House: This bill has had a long run and I can only thank the members of the Legal Affairs Committee for taking the time and energy to make sure that harness racing is preserved in this state.

Harness racing in Maine has been in a horse race for its survival. In the 115th Legislature, we passed L.D. 932, which provided racing with quite a few creative opportunities to help itself. Harness racing is still alive and still helping the entire state out. The race isn't over, harness racing needs greater revenues and a broader fan base to compete effectively with out of state racing. This amendment allows harness racing to continue to grow, to continue to expand its popularity, to contribute even greater income in revenues to the state and continue its marks toward becoming one of the leading export industries in Maine.

As many of you know, harness racing provides many thousands of jobs throughout Maine. It supports hundreds of its states most beautiful farms, contributes substantially tax revenues to the state and local governments, provides exciting entertainment for our residents and tourists and is a leading supporter of Maine's outstanding series of agricultural fairs.

All of this was in jeopardy throughout the 1980's, as we all well know, many of us fought and we did preserve harness racing in this state. We didn't want it to go by the way of the textile industry. The industry came up, didn't ask for tax credits, just came to the table and said, these are some of the items that we need to be successful. And they came again this past week and when I say they, we've got Bangor Raceway that agrees with this amendment, members of the Horsemen's Association, Scarborough Downs, Miller's Restaurant and all the Maine Agricultural Fair Associations. As you know, we allow off-track betting parlors to open up, we have rules and regulations that they must follow.

This amendment protects and preserves live racing in this state. What it does a little bit different than in the past, one of the criteria is that live racing must be conducted 150 race dates in Maine before any interstate simulcasting or off-track betting is permitted by the State Harness Racing Commission. The success to this industry lies within this legislature and the people that are in this industry. The horse men and women of this state provide a lot of revenue for the state. The industry can continue to grow with our support and I urge you to support the passage of this amendment. Thank you.

Representative RICHARDSON of Portland presented House Amendment "A" (H-594) to House Amendment "B" (H-580) which was read by the Clerk.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: The previous speaker, Representative Kerr, has talked eloquently and appropriately about the interaction of what has been going on in this building in recent days, of the Titans of this industry, who have been working for its growth and development in Maine. It protects open spaces. It's a vibrant industry. It's a legitimate part of our county fair and entertainment scene. It's a part of the economy and life of the State of Maine.

Previously, however, I've placed before this body, in question to another bill, the simple fact that there is no net revenue from this legalized gambling for the people of the State of Maine or the government of the State of Maine. There are a couple of taxes that add up to about two percent that do support aspects of the industry. They pay for the Harness Racing Commission. They pay for veterinarians at the track and inspections of the track. They pay for, or a part of some commissions and fees that can make your head swim with their complexity, stipends, comingled fees and everything. I do very much respect the Legal and Veterans Affairs Committee for working its way through these issues which finally have ended in Representative Kerr's amendment.

There is no money, in the words of one of these Titans, "Not a farthing for the people of the State of Maine from legalized gambling," no net revenue. When Mainer's go to the variety store and buy lottery tickets, they pay taxes of 30 percent, that's 30 percent to the general fund of the State of Maine. They also pay some additional fees for administrative costs and other services to support the lottery system, but they pay a 30 percent fee to the State of Maine. 54 percent is returned to the gambler. It's a game heavily weighted, frankly, in favor of the State of Maine and the industry yet against the gambler. When people legally wager at off-track betting parlors and at the park they receive 80 percent, not the 54 percent of the lottery, but 80 percent of the wager paid back in winnings. The other 20 percent is paid into a tremendous complex of fees that support the tracks, support the industry, and if some other spokesperson later will talk about it, you will appreciate the enormous complexity of these fees and funds, commissions.

I was part of the committee that originally adopted off-track betting when it was originally proposed and passed in 1991. I was led to believe that this form of legalized gambling was going to provide some revenue for the State of Maine. The companion bill came through and saw to it that that did not happen. I have felt that if there is legalized gambling, and there should be, and harness racing and off-track betting parlors, that a one percent return to the people of the State of Maine is a basic minimum. People who were at the tracks will go buy a drink and will pay seven percent and buy a souvenir, they'll pay six percent. They will not pay any percent into the revenue of the state. I emphasis the point, because that is the point of this amendment. It does not interfere one bit in the complexities, the negotiations that the industry has worked on. I don't want to touch that. I wouldn't dare touch it, don't know how to touch it if I wanted to. I'm not dealing with that. I'm presenting to you an amendment that would say that one percent of the wagered amount be paid back to the general fund of the State of Maine for this legalized gambling and that is the purpose of this amendment. I appreciate your listening.

The same Representative requested a roll call on adoption of House Amendment "A" (H-594) to House Amendment "B" (H-580).

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

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to vote against the pending motion to adopt House Amendment "B." The Representative from Portland, Representative Richardson, was comparing harness racing to the buying of lottery tickets. Lottery tickets were put out there for the specific purpose of making money for the State of Maine to put into the general fund. Harness racing and the OTB's and all that we have done in recent years was done for one purpose is to make the harness racing industry survive.

I remember I served on the Agricultural Committee here four years ago, when harness racing was about as low as you could go. We got installation of OTB's for the specific purpose of trying to bring that industry back here in the State of Maine. We are heading in the right direction and it has done a good job. We need to keep on that track of bringing this industry back for all the good reasons that the Representative from Old Orchard Beach, Representative Kerr, stated earlier. It is so important to the agricultural industry here in the State of Maine, so

I urge you to vote against this pending motion to adopt House Amendment "B."

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Chizmar.

Representative CHIZMAR: Mr. Speaker, Men and Women of the House: This is a young industry. Right now it's experiencing some growing pains. The whole program needs to stabilize itself, now is not the time to accept this amendment. I urge you to vote against this.

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

Representative TRUE: Mr. Speaker, Colleagues of the House: I ask you also to defeat this motion. Not only is this particular industry fragile but it is in essence the life-blood of most of our agricultural fairs. This money, which is taken in through the racing industry, which includes the OTB's, is essential for those particular fairs that are not making it. I believe, and just the other day at our meeting, we were told that there were nine agricultural fairs that were having difficulty and I know, many of you know, that I come from Fryeburg, and what am I doing talking about it, because Fryeburg fair does quite well. I can tell you that there are others that are not doing as well. Not only does it affect the fairs, but indirectly it affects the 4-H young people who without the fairs, where in the world are they going to go to show their cattle, to show their sheep and other things which they are schooled in and certainly I can attest to that because I have three grandchildren that have for years shown their sheep at the agricultural fairs.

It is my hope that certainly, if given an opportunity later on, whereby there may be some monies in which the states can share, but it seems as though when an industry does well, that we are always looking to put our fingers or tentacles into their pockets as soon as possible to take as much of that money away and again cause problems for this industry, which is a business. I ask you not to support this amendment. Thank you.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House: I know that this amendment looks awfully tempting, especially when you see the price tag that would go to the general fund. In other states where they tried to extract money from the betting public, and that's where this money would come from, the individual that goes up and bets two dollars, the winner would then bet his winnings, or her winnings would be decreased by one percent. The 80 percent goes to the betting public, the other 20 percent goes back to the track increasing purses. Let me explain to you what has happened in this state over the past three years, during what has been some very difficult economic times.

This industry has grown almost 100 percent. That's pretty unusual during these economic times. We have greater purses in the State of Maine than what they have in Massachusetts. So now the horse men and women of this state can race their horses in the State of Maine and not have to drive down to Massachusetts and race. They can race here for larger purses. There's a ripple effect when the horse men and women of this state race. Because the purses have increased, they can go out and make a larger investment and buy a more expensive horse. They go out and they buy trailers. They go out and raise hay. They go out and buy tack. We fill their pockets with dollars so they can go out and spend them. That's the ripple effect to keep the economy going. I would urge that you vote against my good Representative, and good friend, Representative Richardson's amendment because I don't believe that it's in the best interest to take that one percent from the betting public, because we also want them to go to the track and enjoy themselves and for this risk of $516,000 to a fragile industry who is just getting back up on it's feet and still has a way to go. This is not the most prudent approach to take. Thank you very much.

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

Representative TYLER: Mr. Speaker, Men and Women of the House: Unlike the good Representative from Fryeburg, Representative True, I'm involved in a fair that is not doing so well. Cumberland Fair Grounds has been a passion of mine for many years, I belong to the Cumberland Farmer's Club. We operate racing over there, live racing, during the fair meet and for the last several years our fair program has lost money at the races. Fortunately we've been able to keep our heads above water with some saved monies and we're doing borderline well. This is not the time to take one percent out of the industry as Representative Kerr stated, we're tiptoeing along the tightrope and I'd love to see the industry get on much more solid footing before we start taking extra monies out of them. Someday it may come but it's not the time now. Thank you.

The SPEAKER: The Chair recognizes the Representative from Union, Representative Savage.

Representative SAVAGE: Mr. Speaker, Ladies and Gentlemen of the House: I, too, represent a small agricultural fair. I come from Union. Knox Agricultural Society operates Union Fair there. I've been involved with Union Fair for 40 years now, closely involved. I do the bookkeeping for it, so I know that the fairs are struggling. We'll look into this amendment that our good friend, Representative Kerr, has placed on this bill to give us a boost that we need. I know there are other fairs in the state in the same condition that Union Fair is and I know that a lot of people, and there are people here in this House, who take their precious vacations during the summer to volunteer their time to help support the work of these agricultural fairs and let me tell you that this tradition of agricultural fairs goes back before Maine even became a state, when the courts of Massachusetts authorized an agricultural society here in Kennebec County to promote competition among the farmers. This tradition that has been continually ongoing since that time.

A few weeks ago, each of you got a little pass, on the back of that pass there were 24 fairs listed and you can go to an agricultural fair from mid-June. My family went last weekend, I believe it was Pittston. All the way through until October, continually all summer. Let's keep that tradition alive, let's support Representative Kerr's amendment and "Ought Not to Pass" on Representative Richardson's amendment. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative CHARTRAND: This could be addressed to any of the previous speakers. I was wondering if the current proceeds from off-track betting and harness racing support all the costs that the general fund incurs for administration of that, I heard Representative Richardson refer to the fact that some of the associated costs, but I wonder if it's a no net situation, or if in fact, there are costs to support the racing industry that are still borne by the general fund above what the revenue that goes to the state is?

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: I've been assured that that is absolutely the case. That all costs of the general fund bears, on behalf of the industry, are covered by the slightly over two percent on exoticas and slightly under two percent on straight wage that is paid. What I've been talking about here is not a five percent or not a large return, but a one percent return to the general fund for this form of legal gambling.

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

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: The title of this bill is "An Act to Strengthen Maine's Harness Racing Industry." It is inconceivable to me that to impose an additional one percent tax on the patrons of this industry, who already pay 18 percent tax on their straight wages and 26 percent tax on their exotic wages, will strengthen Maine's harness racing industry.

Representative REED of Falmouth moved that House Amendment "A" (H-594) to House Amendment "B" (H-580) be indefinitely postponed.

The Chair ordered a division on the motion to indefinitely postpone House Amendment "A" (h-594) to House Amendment "B" (H-580).

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

Representative HEESCHEN: Mr. Speaker, Members of the House: I urge defeat of the pending motion and support of Representative Richardson's amendment. I think we shouldn't let the truly big money, which is in the OTB licensees hide behind the local track, the fairs, which is what I think they are trying to do. If there wasn't really big money involved, we wouldn't be having so many people scrambling to set up OTB'S and I think that the amount that does come off the handle, so to speak, is ridiculously low for the kind of money that's involved in these operations.

Representative JOSEPH of Waterville requested a roll call on the motion to indefinitely postpone House Amendment "A" (H-594) to House Amendment "B" (H-580).

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 the motion to indefinitely postpone House Amendment "A" (h-594) to House Amendment "B" (H-580) All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 219

YEA - Ahearne, Aikman, Ault, Bailey, Barth, Benedikt, Berry, Bigl, Birney, Bouffard, Brennan, Buck, Bunker, Cameron, Campbell, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, DiPietro, Donnelly, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Greenlaw, Hartnett, Hatch, Heino, Hichborn, Jones, K.; Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kerr, Kilkelly, Kontos, Labrecque, LaFountain, Lane, Layton, Lemaire, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nass, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rosebush, Samson, Savage, Saxl, J.; Saxl, M.; Simoneau, Sirois, Spear, Stedman, Stevens, Stone, Taylor, Thompson, Townsend, Tripp, True, Truman, Tufts, Tuttle, Tyler, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor.

NAY - Adams, Green, Heeschen, Johnson, Richardson, Rowe, Shiah, Treat, Volenik, Watson.

ABSENT - Dexter, Dore, Guerrette, Jacques, Kneeland, Luther, McElroy, Nadeau, Poirier, Rotondi, Strout, Yackobitz, The Speaker.

Yes, 128; No, 10; Absent, 13; Excused, 0.

128 having voted in the affirmative and 10 voted in the negative, with 13 being absent, House Amendment "A" (H-594) to House Amendment "B" (H-580) was indefinitely postponed.

House Amendment "B" (H-580) was adopted.

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

Representative HEESCHEN: Mr. Speaker, Men and Women of the House: I urge defeat of the pending motion so that we may go back and adopt the committee amendment. The reason I urge you to do this is that I don't believe the pending amendment adequately addresses the problem in the harness racing industry.

I served on the Agriculture Committee last session, we dealt with OTB and racing bills. At that time, I thought it was very important that we go ahead and institute a moratorium, so that we could develop criteria by which the Harness Racing Commission actually decides how to grant OTB licenses. Right now there are really no criteria except those that the Harness Racing Commission thinks up. That, frankly, is improper delegation of legislative authority.

Now draw a parallel with the previous experience they've had in serving on a planning board back in the late 70's early 80's. It was a time when a lot of zoning ordinances had throughly broad language for the idea of conditional permits that essentially granted the planning boards the authority to think up the conditions, because there were no specific conditions listed, until a case was brought. Coke vs. Brunswick, it was somewhere around 1982 in which

the courts determined that it was improper delegation of legislative authority, in this case the town's legislative authority, the town meeting or town council to give the planning board the ability to come up with the criteria. In an analogist case, if you had a zoning order in a residential district and you had a conditional use that you could have a retail store there, unless you specified that that retail store as part of the zoning ordinance was less than 4,000 square feet or so, you couldn't restrict it to a mom and pop store, which is what the people who orginially created the zoning ordinance might have thought. You could have a Shop 'N Save there, as long as it met the other criteria.

It made it pretty clear that you had to have criteria put in place by the legislative body. In this case, the legislative body is the legislature, not the Harness Racing Commission. The reason we have a court case right now, dealing with the Bangor thing, the Bangor OTB, is there were half a dozen interest groups wanting to have an OTB parlor in Bangor. It was granted to one particular outfit, others are sueing, challenging this that they didn't do it properly. That was almost ready to happen two years ago when we dealt with this.

It was really frustrating on the committee because it turned out that harness racing stuff really doesn't get dealt with in committee. It gets dealt with in deals by certain people and I've seen the same thing happening here. The committee came out with a 12/0 report which recommended the moratorium which addressed the anti-trust issue, which we're being assured is somehow going to be taken care of, in the declaratory judgment act in dealing with Scarborough Downs. I don't think we have any assurances that that is going to happen. I think we are making a big mistake to go ahead and accept this particular report. We should accept the judgment of this committee which did, I'm sure, judging from how much time we spent and still didn't get anywhere two years ago, but there's a lot of time devoted to this incredibly complex issue. I would urge defeat of this pending motion so that we may go back and support the committee's report.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Chizmar.

Representative CHIZMAR: Mr. Speaker, Men and Women of the House: I need to clarify something here, I received a number of notes from all of you wanting to know the difference between Representative Kerr's amendment and the committee amendment.

Basically, the committee amendment removed the automatic veto power of the race track, or off track betting facility, to prevent possible anti-trust violations. The committee amendment also put a moratorium on new licenses for betting on simulcasting races until May of 96 in order to prevent, again, possible anti trust violations that may place the state at financial risk and then until a comprehensive approach could be enacted. At present, we have court cases pending. When the decision is rendered we will be addressing these in January. Thank you.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Tripp.

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

The SPEAKER: The Representative may pose his question.

Representative TRIPP: I would like to pose a question through the Chair to the Representative from Old Orchard Beach for the record to assure me that Topsham raceway and Presque Isle raceway which had the dates in August last year under this bill will continue to be the only tracks, including Scarborough, because I heard Scarborough was interested in these dates, the only tracks that will have these same dates now and in the future?

The SPEAKER: The Representative from Topsham, Representative Tripp has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Fryeburg, Representative True.

Representative TRUE: Mr. Speaker, Men and Women of the House: In answer to that question, that was something that we worked out today and I think to the satisfaction of the people from Topsham and that is if you would look in the, I don't have the papers, but I think it's the last paragraph, page 7, where it indicates and gives a date there and I think you will find that that will take care of it.

The SPEAKER: The pending question before the House is engrossment.

The Chair ordered a division on passage to be engrossed as amended by House Amendment "B" (H-580).

A vote of the House was taken. 103 voted in favor of the same and 3 against, subsequently, the Bill was passed to be engrossed as amended by House Amendment "B" (H-580) and sent up for concurrence. Ordered sent forthwith.

Representative KILKELLY of Wiscasset moved that the House extend until 9:30 p.m., pursuant to House Rule 22.

A vote of the House was taken. 82 voted in favor of the same and 21 against, the motion to extend until 9:30 p.m. prevailed.

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

House Divided Report - Committee on **Marine Resources** - (7) Members Report "A" **"Ought to Pass"** as amended by Committee Amendment "A" (H-570) - (5) Members Report "B" **"Ought Not to Pass"** - (1) Member Report "C" **"Ought to Pass"** as amended by Committee Amendment "B" (H-571) on Bill "An Act to Establish a Management Framework for the Lobster Fishery within State Waters" (H.P. 577) (L.D. 782) which was tabled by Representative CLOUTIER of South Portland pending his motion to accept Report "B" **"Ought Not to Pass.**

At this point, the Speaker appointed Representative REED of Falmouth to serve as Speaker Pro Tem.

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

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

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: I know that it has been a long evening and I hope that this debate will not be

very long but I can assure you it will be very honest and very truthful.

Ladies and gentlemen of the House, the Maine lobster fishery is the United States lobster fishery. The Maine lobster industry consists of the most efficient, the most conservation minded fishermen in the world. That the fed's or the State of Maine to suggest otherwise, to say the faces of an army of federal "fishcrats" in Washington D.C., is deplorable. L.D. 782, if enacted, would emasculate the State of Maine commercial lobster industry and rip the hearts and guts out of every lobster fishing family in our great State of Maine.

One of my reasons for signing on the "Ought Not to Pass" Report was simply this, I oppose trap limits. This is still the great State of Maine, ladies and gentlemen, this is still the great United States of America, where if you work hard, you benefit from that working hard. A person spends 25 to 35 years building up their trap limits to 3,000. He spends all his life working for his family, to build a nice home, to have a nice vehicle, to support his children, to support his wife, to have a half decent life. What this bill will do if enacted, would knock that man from 3,000 trap limit down to 1,200 traps. Now I've got to ask you, that's 60 to 70 percent of that man's livelihood.

That's like one of us, going to work for someone else, or I'll take myself for an example, working for the phone company, I remember a couple of years I worked the coast of Maine on electronics. I spent the whole summer taking care of electronics from Stonington to Calais and after I fixed everything, I came back home and the phone company said to me, "nice job, Pete." But they paid me. If I were to be treated like this bill is going to treat the lobstermen, what the phone company would have said to me, "thank's a lot, Pete, we're going to cut your pay by 66 percent." That's why I'm opposed to this piece of legislation.

For the last two years, we've received record crops, 40 million pounds last year. I ask you, why fix something that isn't broken? Somebody wants to get in on that 40 million pounds of lobsters. You know ladies and gentlemen, there's no trap limits in Connecticut, there's no trap limits in Rhode Island, there's no trap limits in Massachusetts, there's no trap limits in New Hampshire and there should not be any trap limits in Maine. We're taking away one of the greatest heritages that this state has ever known and that's the ability for an individual who is a native of Maine to be able to jump in his lobster boat and go out and fish.

Well let me tell you what has happened ever since the Georges Bank has been closed. The draggers have all of a sudden said, "Well I can't make anymore money on the codfish, or the yellowtailed flounder, but there's 40 million pounds of lobster up there in Maine, I think I'll slide up in the gulf of Maine and grab some of it and it's been documented that that's exactly what they are doing. They're taking eight to ten thousand pounds by dragging our lobsters and they're selling them down in Portsmouth, New Hampshire. My good friend, Representative Moore was telling me last Saturday, Portsmouth, New Hampshire, he went to buy some lobsters and a gentleman who was selling them, says "Yea, I've got a fifteen pounder and a seventeen pounder, which one do you want?" Representative Moore said, "Where did you get these?" He says "We're getting them up in Maine. Everybody's getting them up in Maine." We can't land those lobsters back here in the State of Maine, but they can land them down in Connecticut, Massachusetts, Rhode Island and New Hampshire and make a fool out of all our lobstermen. Well I don't agree with it.

What we need to do, ladies and gentlemen, is place the onerous on the New England Fisheries Management Council, who happens to be controlled, the majority of them by draggermen. The New England Fisheries Management Council can set a trap limit for the whole of New England, not just Maine. I don't want to see our lobstermen be used as the guinea pigs. We're the best lobstermen in the world. Let's not put the cart before the horse, let's put the horse before the cart. Let's make these New England Fisheries Management Council people make this thing work for everybody. No dragging of lobsters. No they don't want to have any part of that, they want to knock every little lobsterman right out, out of Maine. Well I'm going to fight my hardest to make sure that they stay here, ladies and gentlemen. It smelled from the very beginning. Our Maine native lobstermen must not and should not be used as the coastal chum by the Washington D.C. "fishcrats."

In closing, ladies and gentlemen, I'd just like to say, because there are others who want to speak in detail about other reasons why this bill should not pass. Special interest politics and greed are the greatest threats to the Maine lobster and his catchers. The Maine Legislature can do a great and protective service to the lobstermen of Maine by leaving them alone in the respectful infinity that has sustained prey and hunter for the past 200 years. I thank you very much.

Representative BIGL of Bucksport moved to table one legislative day, pending the motion of Representative CLOUTIER of South Portland to accept Report "B" **"Ought Not to Pass."**

The Chair ordered a division on the motion to table one legislative day.

A vote of the House was taken. 15 voted in favor of the same and 66 against, subsequently, the motion to table one legislative day did not prevail.

The SPEAKER: The Chair recognizes the Representative from Sedgwick, Representative Volenik.

Representative VOLENIK: Mr. Speaker, Men and Women of the House: I urge you to vote against the Minority "Ought Not to Pass" motion so we may move on to the Majority "Ought to Pass" as amended by Committee Amendment "A" Report.

I'd like to give you some background on this issue. Our fisheries are in crisis. Off shore, large draggers have decimated the groundfish industry, with parts of Georges Bank and the gulf of Maine closed, the off-shore fishermen are moving towards our shores. Our in-shore lobster industry is being assaulted on two fronts. First, as has been said, the draggers are moving in closer to shore and sweeping up everything in the sea. They're dragging for our female lobsters and our over-sized lobsters and landing them in ports south of Maine. We protect our female and over-sized lobsters, yet we are powerless to stop the draggers. They have political control of the New England Fisheries Management Council, which was set up ostensively to protect all of our off-shore fisheries. The way to stop this council is to pass laws which show the rest of the country, we know how to save our lobsters.

Our lobster industry is also being assaulted by the new lobstermen who have been driven from other fisheries by recent federal closures. It is easy to get a lobster license in Maine, buy a lot of traps and go fishing. With no trap limits, some lobstermen are fishing 2,000, 3,000 even 4,000 traps to earn as much as they can. They are not fishing well. They're saturating the bottom with traps, hoping that this 500 traps here will catch a few lobsters and that 400 traps over there will catch a few, and another 600 traps strewn all over the place will catch a few more lobsters. When 400 to 800 traps strategically placed by a skilled fishermen will produce a very good living for himself, his family, and often a sternman and his family, too. Two thousand, 3,000, 4,000 traps are too many.

Last year was a very good year for lobsters, but lobsters run in cycles. This year may be good. Next year may be good too, but this could also be a year of decline. We don't yet know enough to predict the exact cycles of boom and bust with lobsters, but that does not mean we should sit by and let more fishermen enter this industry and more traps add to the estimated 3 million already on the bottom.

Scientists have estimated that Maine waters are over fished by 20 percent. We harvest 90 percent of the lobsters soon after they reach the legal size limit. The Maine Department of Marine Resources has recommended trap limits and limiting entry into the industry through an apprentice program. If we establish a trap limit, the Department has agreed to establish regional zones with councils of fishermen, to establish the criteria within our guidelines to control their own resources.

The fishermen themselves want local control and they want an effective trap limit and limited entry. In several recent polls over 80 percent of fishermen supported the concept of a trap limit of 1,200 traps, eventually, reducing to 800 traps. The Maine Lobstermen's Association has committed to trap limits. There is a fear among lobstermen that if we don't impose trap limits then the federal government will and the federal government's idea is not 1,200 traps but an 800 or 600 trap limit. It is a real threat that can be forestalled by showing that we are serious about trap limits. If we go to 1,200 traps it shows a commitment to the concept of limits and even though it doesn't go far enough, it may be enough to satisfy the fed's, to reduce our effort so that the industry is sustainable and to show that Maine, which lands 50 percent of the lobsters on the east coast is still the leader in establishing real and lasting conservation measures. We've always been the leader. Our minimum and maximum size limits, our "V" notching and protection of breeding female lobsters, and our self-policing of the industry are benchmarks for the rest of the country.

Who is it, who doesn't want trap limits? There are a few lobstermen downeast who fish more than 1,200 traps and a few of their leaders in the Downeast Lobstermen's Association very well represent their interests and very well lobby for those interests. But it is especially a few lobstermen, maybe 50, in western Maine waters and especially Casco Bay who have lobbied hard to protect their huge stocks of traps. These are the fishermen who have 2,000, 3,000, even 4,000 traps in the water. Now the average fisherman may be able to haul 200 or 400 traps a day with a sternman, maybe double that, but there's no way you can fish 4,000 traps efficiently without losing lobsters, because you can't haul the traps every couple of days, it's just too many traps.

We're not asking someone with 3,000 traps to drop instantly to 1,200. If there's an 8-year period to reduce to 1,200 traps, fishermen would reduce maybe 200 traps per year. That's less than a fishermen would have lost through natural attrition in a year. An eight year gradual reduction means that for eight years he will have low trap replacement costs, lowering bait costs, lower fuel costs, and a chance to go improve his efficiency and skill by using fewer traps. Most fishermen will actually net very close to their previous year's income as their expenses go down. Life will be a little easier. As one fisherman told me, "Please restrict our traps, we know we are fishing too much, but as long as my neighbor is doing it, I'm going to do it. It's in our nature, we're a competitive bunch." Please vote against the "Ought Not to Pass" motion and support the Majority "Ought to Pass" as amended bill. It's not as tough as I would have wanted. It's not as tough as the Maine Lobstermen's Association wanted. It's not as tough as the Department of Marine Resources and the federal government wanted. It's not as tough as 80 percent of our lobstermen wanted, but it's a good bill and it's a start. It's something we can expand on in future years. If we don't pass this bill, we will be remembered by the lobstermen as just another Legislature that can't accomplish anything when they need it and we could be remembered as the Legislature that failed to save lobstering in the State of Maine. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative Hartnett: To anyone on the committee that could answer this. One of the things I'm still confused about is we're talking trap limits by reducing to 1,200 the maximum amount of traps that any one fisherman might have in the water, as I understand, this only applies to about 10 percent of the fishermen who would be over this limit. What I'm thinking is going to happen is smaller fishermen will rush into that void. Let's say a fisherman with 400 or 600 might go to 800 or 900 and in the end we really won't have fewer traps in the water. Is there any provision in there to make sure that that scenario doesn't play out?

The SPEAKER: The Representative from Freeport, Representative Hartnett has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from South Portland, Representative Cloutier.

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: That's a very good question. Actually, no, what will happen is people who have, let's say 3,000 traps, will go down to 1,200 and those who are fishing with 200 can move up to 800. You're going to still have the same amount of traps in the water, if that answers your question.

The SPEAKER: The Chair recognizes the Representative from South Bristol, Representative Rice.

Representative RICE: Mr. Speaker, Ladies and Gentlemen of the House: To answer your question, if we could pass this bill, with the zone management

policies, my zone, I live in a lobster zone. I represent seven lobstering communities. My zone has already opted to go to 600 traps, so we will see a drastic reduction in traps in the state waters if we pass this bill, because this zone management thing can set their own trap limits, they can do lots of things. This is really the management tool we need and we can reduce the numbers with this and it will work.

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Jones.

Representative JONES: Mr. Speaker, Ladies and Gentlemen of the House: I also represent three towns that lobster. I grew up on Mount Desert Island. I hold a lobster license and I row around in my little dingy in the summer and pull a massive eleven traps.

I'll tell you something, though, there's not a trap made in this state, there's not a trap on the shore that isn't going to find it's way into the water. I heard that Friendship Trap is 35,000 traps behind right now. You can't tell me that if someone goes from 3,000 to 1,200, those traps are not going to wind up in the water. Those traps are going to be cheaper. They're not going to be $33 apiece, they're going to be $15 or $20, they're going to hit the water. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lamoine, Representative Pinkham.

Representative PINKHAM: Mr. Speaker, Men and Women of the House: I stand in support of the "Ought Not to Pass" on Report "B." Before I get into some of the reasons why I do support this amendment is that my background in the fisheries, you might say I've done a full circle. I've lobster fished, I lobster fished for five years, out of high school. At that time you didn't need a lot of money to go lobster fishing, but I didn't have a lot of money, so I didn't stick with the fishery because I couldn't afford to do it to support my family. I joined the Marine Patrol, the warden service then, the coastal warden service, and I spent 21 years enforcing the laws on the Maine coast. I've worked side by side with these fishermen that work out there.

When there's a problem in the Maine fishing industry, lobstering especially, the fishermen have usually taken care of those problems on their own. They've suggested laws that have been passed that have taken care of the problem of not enough lobsters. I think over the past few years, it has shown that their suggestions and the laws that have been passed have taken care of those situations. We've had seed lobster programs where the female lobsters have been put back into the ocean. "V" notched lobsters have been put back in the ocean, it's illegal to have those type lobsters. We have the double-gauged measure which keeps the small lobsters and the over sized lobsters in the ocean. We also have many more conservation laws that were suggested by the fishermen and passed by the state legislature. We have a vent law that keeps the small lobsters out of the traps. They'll come in the traps but they will also crawl out on their own, where they didn't have to be picked out, so those lobsters are still on the bottom. Like I say, we have many conservation laws that have been passed over the last 20 or 30 years in Maine.

The lobster industry in Maine has been a tradition for 200 years, a way of life for a lot of people. I would hate to see that change just because of some figures that really can't be proven. The figures that can be proven show that the lobster industry in the State of Maine is very well. Over the last ten years people say we have more fishermen now than we had. Twelve years ago there were 8,900 licensed lobster fishermen in the state. Last year in 1994, there were 6,400 so it's a decrease in fishermen by 27 percent over the last 12 years. Since 1987, the lobster catch in Maine has almost doubled. There was around 20 million pounds in 1987, in 1994 it was over 39 million pounds so it shows that the lobster industry is alive and well. It's not hurting, it's in very good condition.

My friend and colleague from the Sedgwick area stressed that it's easy to get into the fishing industry now. It's not easy to get into the fishery now. It costs a lot of money. The average boat now is approximately $80,000, traps are $60 to $70 apiece, so it's not easy, it's expensive to get into the industry. As far as fishermen just putting traps in the water to take up space, that really doesn't fly, nobody is going to spend $60 to $70 on traps and put them in the ocean and take a chance on losing them without tending them, if they tend them every day or every two or three days, they know the traps are there and they know that they are okay. If you put them in just to take up bottom, no responsible fishermen, a person that's making his living in the fishing industry, is going to do that with that much money invested, put something out there that he doesn't tend just to take up bottom, that doesn't happen.

You also heard that 90 percent of the lobsters of legal size are taken each year. That could be so, but that's not bad, the legal size lobster is a lobster that's from 3 1/4 inch body shell to 5 inch body shell, so you're talking about 1 3/4 inches. If you take the overall size and the number of lobsters on the bottom that range from very, very small, that's not even measurable, to the largest lobster, that could be, well we don't really know, 10 to 12 inch body shell, then you're only taking a very small, out of a foot, you're taking an inch and three-quarters, if you want to put it that way to compare it. So you may be taking 90 percent of the lobsters that are of legal size, but you're leaving many million more on the bottom. These lobsters in the early stages shed, at market size, they shed every year, which when they shed that's when they grow. As they get bigger, they shed less, but usually they are oversized by then so you can't take them anyway in Maine.

The MLA backs this bill. A few years ago the Maine Lobstermen's Association, the MLA, was the only lobster association on the coast, now we have three lobster associations on the coast. We have the Downeast Lobstermen's Association, which represents downeast Maine. We have the MLA, Maine Lobstermen's Association, which basically represents mid-coast, and we have the Southern Maine Lobstermen's Association which represents southern Maine. Right now MLA is the only one that supports this bill and it is a small percentage, I'd say 30 percent of the MLA members that actually support this bill. I have over a hundred MLA members in my district that don't support this bill, so it's not supported totally by MLA. It's a percentage, which nobody knows probably really what the percentage is, but I would say it's probably in the 30-percent range. When you take the whole coast, it's a very small percentage of lobster fishermen who really support this bill.

If you ask fishermen if they would support a trap limit, most of them probably would say yes, some type of a trap limit. This bill, the trap limit, we've already had some discussion on this, the trap limit would be 1,200 traps statewide. Anybody fishing over that amount of traps, all they have to do is document to the Commissioner that they fish over 1,200 traps and they still can fish that many traps. They have eight years, if this bill passes, they would have eight years to come down to the 1,200 level. Anybody fishing under 1,200 can go up to the 1,200 limit, anytime. The majority of the people in the State of Maine, probably are fishing 400 to 500 traps, but there is nothing to stop them from increasing and it would be probably be a natural thing if you knew your neighbor was bringing his trap limit down and taking traps to shore, you'd probably put a few more in. It's very conceivable within a few years, you could have many more traps in the ocean than we do now.

If this bill passes there will be six classes of lobster licenses. Under the law some of the criteria for getting the lobster license, if this bill passes, it says anybody who held a license in 1993 or 1994 or up until March 31st of 1995 is automatically in, if you owned and operated a boat during that time. So anybody who had a license in those three periods and owned and operated a boat would be automatically in, but anybody who didn't own and operate a boat would have to go through the apprenticeship program. Also if you look at the classes of licenses, the class two lobster license and the class three lobster license have provisions to take unlicensed crew members to fish on those boats. The class two license, and there's about 1,200 of those licenses issued in the state now, for 1994, there was about 1,200 class two lobster licenses, those people could take one unlicensed crew member aboard that boat and give him sternman experience.

The class three license can take two of those people and they don't have to be residents of the State of Maine, they can be from outside the state or anywhere, they don't have to be a resident. That's not a resident license. Where the regular lobster licenses are resident licenses. Another one of those ways that you can get a lobster license, this bill says if you owned certain licenses for three consecutive years in the last ten years, you'd be able to get a lobster license. The state sells about 16 licenses and only about six of those licenses would qualify you to be able to receive a lobster license ,without going through the training process. Those licenses that would qualify you to stay in the fishing industry have nothing to do with lobstering. They're licenses such as quahog licenses, sea urchin licenses, mussel harvesting licenses, those type licenses. Anybody that has been in the lobster fishery, like wholesale dealers, that buy lobsters off the harvesters, retail dealers, who sell lobsters along side the road, and people that are regular harvesters, like clam diggers, worm diggers, worm dealers, those type people would be shut out of the industry. They would have to go through the apprenticeship program. You could have been in the lobster business, as a dealer for the last 20 years, but you can't get a license without going through the apprenticeship program. But if you had dragged mussels or something like that, for three of the last ten years, well you can get in. It's very discriminatory on who can get in and who can't get in. Also people that retire and maybe own a place on the shore, if they want to fish a few traps, get a license and fish a few traps, they can't do it. They've got to go through the apprenticeship program. We have a lot of people who retire in their early 60's that own places on the shores and would like a few traps to just get enough lobsters for their own use and their families. These people would be shut out of the business, they wouldn't be able to get licenses.

Under the apprenticeship program, it says the Commissioner can waive if you have been a sternman, then she can waive the apprenticeship for going on the lobsterman's boat to get that training, she can waive that, if you've had previous sternman experience on a lobster boat. That opens it up for more people to come in, not being licensed fishermen, going back to the class two and class three lobster licenses. Those people that are not licensed on those boats would have sternman experience and they could get a waiver to come into the fishery without going through the apprenticeship program. There is no time limit, they could be on there a week or two weeks. They would have the experience, they would have the documented experience that they are sternmen, they went as sternmen so they could get into the program without going through the apprenticeship.

Under the zones, the state would be set up in zones, this would give the Commissioner complete powers over the whole state lobster fishery. By setting up these zones and setting up councils in these zones, setting up the trap tags, every trap that would be in the water would have to have a trap tag on it and the trap tags, the price of these tags are going to take care of all of the expenses for this program. I think there are five people that are going to be hired, two marine patrol officers and a boat captain, plus two office workers with equipment. Right now it costs about $80,000, the first year, to put a marine patrol officer in the field. This bill would require two marine patrol officers, plus the boat captain with additional boats and cruisers and those things. So this bill would be expensive. The fiscal note on it, I think is around $500,000 for two years, but I have a feeling that that is a little low. Trap tags on each one of these traps would be expensive, that would be another tax on the fishing industry.

Setting up the zones, it also says here, quite a few years ago there was a Marine Resource Advisory Council set up to advise the Commissioner on her rulemaking. She has the power to make rules and regulations, which become law, the same laws that we pass right here in the House. There was an advisory council, Marine Resource Advisory Council, set up quite a few years ago to advise and counsel her, the Commissioner, whether it happens to be a he or she, on making those rules and the Commissioner would have to go through the advisory council before any of these rules could be adopted, but if this all goes through, there's an exemption in there that says that the Commissioner is not required to go through the Advisory Council to make these rules, she could bypass that and she could make these rules on her own. Also it says, she uses the input from the zone, the Council of each zone. There would be nine member councils in each zone. They would set the rules and stuff and then she would have to approve them, but it also says she doesn't have to take their rules. She can set her own rules, she doesn't have to go by what

they suggest. So this, as far as I'm concerned, is giving the Commissioner of Marine Resources sweeping regulatory powers that would control and have an impact on the Maine fishing industry for a long time.

I just feel that the fishing industry in Maine is not hurting. All of the records will show there's no proof, there's no proof that anybody can show where the lobster catch in Maine is hurting. I just think that this bill will have a real bad effect on the lobster fishery in the future, for people who want to make a living. People that are not making their living in the lobster fishery, probably would vote for this bill, probably would be for it, but it's the people who have done this traditionally for the last 150 years that really make a living on this. It's Maine tradition, and I would hate to see this change by passing this bill. This is a bad bill and I would ask you to vote for the "Ought Not to Pass" on Report "B."

On motion of Representative KILKELLY of Wiscasset, tabled pending the motion of Representative CLOUTIER of South Portland to accept Report "B" **"Ought Not to Pass"** and later today assigned.

Representative KILKELLY of Wiscasset moved that the House extend until 10:00 p.m., pursuant to House Rule 22.

A vote of the House was taken. 53 voted in favor of the same and 28 against, the motion to extend until 10:00 p.m. prevailed.

House Divided Report - Committee on **Marine Resources** - (7) Members Report "A" **"Ought to Pass"** as amended by Committee Amendment "A" (H-570) - (5) Members Report "B" **"Ought Not to Pass"** - (1) Member Report "C" **"Ought to Pass"** as amended by Committee Amendment "B" (H-571) on Bill "An Act to Establish a Management Framework for the Lobster Fishery within State Waters" (H.P. 577) (L.D. 782) which was tabled by Representative CLOUTIER of South Portland pending his motion to accept Report "B" **"Ought Not to Pass.**

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

Representative BIGL: Mr. Speaker, Ladies and Gentlemen of the House: I'm going to ask you not to support the "Ought Not to Pass." I'm going to ask you firmly not to support that. I want to tell you why, but I need your attention. I really need your attention. I need that because of the way the lobstermen got my attention.

I was new on the Marine Resources Committee, the first group of lobstermen walked in there. Three of them walked up to me. I weigh 160 pounds, by the way, and one of the lobstermen, been hauling on traps for a long time, now I swear that index finger was about that big. He put that finger right into my chest and he said, "You're going to be just like the other four letterheads on the other committees that were here. We're going to come up here and talk and then you're going to leave us in a lurch and come out with nothing. You're not going to do a blank thing for us." We chatted a little bit, so I said, "I'm going to try to do something for you. One of the things I'm going to try to do for you is at least get it up to the floor where the members who are going to vote on it can hear it. They can at least hear what you had to say." That's what we're here for tonight, so let's listen to them, let's pay attention to what they have to say. It's very important to them, as you've already heard, it's their livelihood, it's their lives. I take this very seriously.

Now, first, I'd like to add just a little bit of science. We all have various bits of expertise. Some of you have been fishermen, some of you have been something else, part of my background is engineering. I went to school and studied engineering, then I went to school beyond there and studied human beings. So I do have an engineering background. We look at the science, you've got a tree in your back yard. Every time you walk out of your house that tree is right there isn't it? That tree doesn't move, except when a day of nature comes along and wipes it out, or you decide to wipe it out.

The lobster does not operate that way. The lobster out there tends to want to go where the lobster wants to go. They usually go where the food is. They usually go where they can multiply and they usually go away from a bad environment, like temperature changes. So how do you deal with that kind of issue when you come to science, well over a period of years the scientists have put together what is called the DeLury Model and what they do is go out in various parts of the gulf of Maine and other parts and they sample. They know the lobsters move in shore and off shore. They know lobsters move around and the fishermen will vouch to that, they will tell you that the fishermen in Massachusetts catch the "V" notched lobsters that we "V" up in the State of Maine. They weren't carried down there. They did some moving. As a matter of fact, there is a report that they were as far down as the Carolina's. So what that tells me is the scientists can't walk out on the coast of the State of Maine, within three miles and say, "Well this is it." That's not good science. Good science is you have to go where the creature is. That creature is all around out there.

So over the years, the scientists have put together a mathematical model for all its encumbrances and that model has worked and the model tells us we are over fishing. Now let's stick with science for just a moment. We had science that said, "Hey, don't fish any more of those fin fish out there, you're going to fish them right out." Ah, we can keep right on going. There's a lot of the fishermen now trying to do this, the federal government trying to buy a lot of these fishermen out and there's a lot of those fishermen moving over into, had an initial rush, moving over into other fisheries, including the lobster. They didn't believe the science.

Now come the Japanese, they wanted the urchins. They wanted the urchin roe to be exact and we just started going, and the scientists said, "Wait a minute, you're going to wipe them out." Oh no, we're going to keep right on going. What has happened, we had to put in a law restricting the taking of urchins and we expanded on that just in the past few days. The science is out there folks. We can choose to ignore it if we want to, based upon what I'm hearing, from most of the fishermen, most of the lobstermen, from what I'm hearing from the scientists, there is a problem out there and I think we have to deal with that problem.

Now, with that as a beginning, we do have a science problem. We do have two fisheries that have gone and we've restocked it, now let's look at the

lobster itself. The lobster doesn't like cold water, and science tells us that and so do the lobstermen tell us that. In the June issue of Commercial Fisheries this year, bleak and dismal was how one lobsterman described fishing. Most of the gear was over the side but the pounds trapped per pot was only slightly higher than that of a month ago. Compared to last year at this time, most fishermen estimated their haul was 50 percent or less for the month. It's been down out there. Now most theories accounting for the low catch said that the northeast had a relatively cold spring, in other words, the water's cold. Lobsters are not going to come in for that. Nature can wave the wane that we have no control of. The gulf stream can change just a little bit and we get cold water. So when those things happen, are we going to be ready for it? We're not saying, we're going to do things now. Things we're putting together are going to happen in the future, let's be ready for it. Let's put a lobster management plan that is going to keep us ready, so the lobstermen doesn't go the way of the cod fishermen.

The second thing that is going to affect the lobster fishery is, word out there the cod fish are coming back. You know what they like to eat. Those little small lobsters. As they build up, now that's nature working out there, this is not man, this is nature working out there and as the cod builds up, even the fishermen tell me, you have to be blind to see that we aren't going to loose lobsters. So with all that in mind now, I want to talk about a lobster management plan, of which trap limits are part of it.

There's also another part of it, and there's a fear along the coast that the lobster industry will go the way of a giant corporation. They don't want that to happen. Roughly about 80/83 percent out there of the lobstermen, single lobstermen with a boat, or single lobstermen with a boat and a sternman, they kind of like that way of life. So as you look at a plan and as you look at these things that they told you and you hear, how do you put a plan together? What are the crucial things that you look at? Well, I'm going to go back and repeat. Lobster fishermen, scientists and other interested parties want to prevent the lobster from going the way of the cod. Secondly, for a lobster fishery plan, whatever that is, to work, it won't work, it won't work, mind you without the lobstermen directly and deeply involved. That means it can't come from here. What we have to do is put together a plan for them, that will go right into their back yard and they can deal with it. So with that in mind, we put together the lobster plan, lobster management plan. It does not satisfy everybody. I stood in that committee day after day, after day saying the person with the most lobster traps has invested his time and his life into this, taken his money and poured into this. I refuse to bend for the 1,200 trap limit. After listening to some lobstermen, I finally bent to eight and then seven years. Now what's going to happen in that period of time. We're going to establish zones and councils and the councils are going to take over their own management and they are going to decide. We're going to let them decide that. There's going to be legislation, I imagine, from the Marine Resources Committee that follows us, that as the lobstermen take over, we'll give more and more to them so they can run their show and be protected. They can protect themselves.

So lobstermen involvement is a major concern around our lobster management plan, direct involvement. To get them started, we've said to the Commissioner, who by the way, has a valued reputation, I wish I had the reputation she has along the coast. I went to the fishermen's forum, first time I've been there, lot of fishermen were there, a lot of lobstermen were there. I attended a few meetings. I didn't hear one word, one derogatory word about that Commissioner, and what they were saying was, "She brings us into the process. She brings us into the process. She listens to us. She brings us together." Does that sound like a Commissioner that's going to be a tyrant? Not to me it doesn't. It sounds like a Commissioner that is going to work just as hard as she possibly can with every lobsterman so that they come as close as they can to a consensus on what they want to do in their own zone. We've got one heck of a Commissioner. Let's take advantage of her while she's here. That's why we wanted the zones and the council.

Now conserve the resource, there will be others speaking so I'm going to be quick over this and there will be others speaking on the issue. We talked about apprentice program licensing requirement, and it's not a perfect plan. We know it's not a perfect plan. It's a starter, we've already learned some things, so when you pass Committee Report "A," we have some changes to put on immediately after that, to take care of some of the issues that were brought up around the apprentice program and the licensing requirement.

Trap limits, like someone has already told you, a number of people want 800. They're saying 1,200 as a starter with those who have more than 1,200. You can work down, and it's going to take awhile to do that. So this is not stagnant, this is not something that is going to be put in place like this and there's nothing going to happen from now on. The lobstermen now have our attention. We're talking about it here. So, I'm certain we're going to go right along with them and as they come up with their changes that they need, that we're going to be working with them. So I see a dynamic thing happening. I don't see us as saying, "Okay, here's your plan and we walk away from it." I don't see you saying that.

The lobstermen get one more thing they want. I heard constantly day after day, after day I wish we had more wardens out there. More wardens for a number of reasons, for lobster dragging, gear problems. This program, this committee amendment that we are talking about, Committee "A," says, we're going to give you two more and than they said, well how are we going to pay for it? We told them trap tags. There was an estimate on costs and they said, we'll buy it. We want those wardens out there. Well, I'm telling you where I'm coming from. I'm telling you where that lobsterman was coming from when he stuck that great big finger in my chest and pushed me back, 160 pounds, at least three feet with that little index finger of his. He wants us to do something. He doesn't want us to walk away from here. So I urge you, I firmly urge you, to kill the "Ought Not to Pass" Report and go on to the "Ought to Pass" Report. Thank you.

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

Representative LEMONT: Mr. Speaker, Ladies and Gentlemen of the House: I'd like to apologize to the House for having to learn more about lobsters than I'm sure they ever cared to know. I am a lobsterman but I stand here as a State Representative, representing 80 licensed lobstermen in my community. When this legislation first was rumored to be hitting the Committee, I got a call from one of my constituents. A lobsterman wanted to know what I was going to do about it. I told him I represented him, even being a lobsterman. I certainly had my opinions but I represented him and I had a meeting in my community of all my fishermen, of which Representative Ott and Representative Marshall were in attendance, and we went through each bill, step by step. There were three bills at the time. The Committee pared it down to one and worked that bill. I listened to my constituents. I heard what my constituents said, and they support this legislation. I had the good fortune of visiting a group of lobstermen in York, through the invitation of Representative Ott. They supported this legislation, in fact, the discussion that evening, the discussion among those fishermen was, why the trap limit had to be so high. There were 25 fishermen in that room and only two had less than 600 traps and that's where they wanted the limit, 600 traps. Everyone of those fishermen had more than 600 traps. Now I'm here to represent my constituents and I'm here to speak on what they want.

I take great offense, the Representative from Lamoine speaking for the position of the Southern Maine Lobstermen's Association. The President of the Southern Maine Lobstermen's Association is my constituent and resides in my community and I talked to him as little as 24 hours ago and that is certainly not their position on this legislation. We had a chance to talk about 20 percent. Where does 20 percent come from and what are we talking about when we talk about 20 percent? The scientists and biologists have determined we have a 20 percent too high mortality rate in the fisheries and that is from Cape Cod to the Canadian border and into the shore. Agree with it or not, as we heard the good Representative Bigl say, we did not address the ground fisheries and now we have a problem. We addressed the sea urchin fisheries. It just came off its most successful year in the State. I ask you, why not address this fisheries in a conservation measure while it's healthy. You're not going to address it when it's collapsed. You'll have people out of work.

The dragger issue was brought up. We in the State of Maine are doing everything humanly possible to keep the draggers out of the business. Inside three miles, no dragger can land lobsters in the State of Maine and also right in the state laws it shall be unlawful to fish for or take lobster by any method other than conventional lobster traps. I feel it is unfortunate the draggers are doing this and I would be the first one to tell you it is wrong, but the way to handle this is through Congress and no pun intended, it takes an act of Congress to address this issue and I feel it should be addressed.

Zones is a wonderful idea. How many times do you hear your constituents say, "I'm tired of federal laws. I'm tired of state laws." It gives them the opportunity to come up with their own laws, in their own communities, and legislate their own fisheries.

Trap limit, in no way, does this trap limit tell the fishermen the size of his traps, the color of his traps, the heads he ties in them, the bait he uses, the days he hauls them, how often he hauls them, or where he sets them. Wouldn't it be a novel idea to go back to fishing again and actually moving your traps around. I'll guarantee you the good Representative from Northport's a fisherman. I'm a fisherman. He has 1,200 traps. I have 1,200 traps. One of us is going to catch more lobsters and I have my opinion of which one that is going to be. Limited entry, there is limited entry, right now that fisheries, anybody moves in the State of Maine, resides in the State of Maine for six months can get a lobster license, go roll it over the bank and go fishing. Wouldn't it be wonderful, if we had some kind of apprenticeship to teach these people how to fish. It is, and I will also repeat, it is the only, it is the only, open fisheries in the State of Maine right now. It is the only fisheries we have not addressed.

Also, I would like to talk about the fairness issue. As all of you know, and I do not want the fed's driving my lobster plan either, but you all know the fed's have a lobster plan and it's going to be from three miles out and if they put in their plan and anyone of your constituents has a Maine lobster license that has FCZ stamped on it, which means Federal Commercial Zone, they are going to be regulated. They are going to be regulated by that fishery from three miles out and if that regulation is more stringent than what they have inside, it's coming right into the beach on them. So that's a fairness issue. There's a fairness issue because if I'm sitting inside with no trap limit, I can fish as many traps as I want and if they get a trap limit outside, they are going to be restricted to that amount of traps.

I'd just like to say one more thing, and I know this has dragged on long, but I feel passionate about it and I would appreciate the chance to speak on it. One of my constituents said this very well, he said, "Ken, you've got to do something for the betterment of us despite us, despite us, doing nothing is no longer an option in this fishery." Thank you.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative ETNIER: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for the late hour, and I appreciate your attention on this very important issue. This is the second largest fishery in the State of Maine. I'm very sorry to be debating this late at night to, shall we say an half empty House. The reason I came to fully support the "Ought to Pass" Majority Report of this Bill, L.D. 782 and to oppose the pending motion which is the "Ought Not to Pass" is because I feel the "Ought Not to Pass," ignores, totally ignores several things.

The first thing it ignores is the public hearing that we had on this bill, maybe 100 years ago, it seems like. It was a very well attended public hearing. There were several hundred people there. Anybody who was there will tell you that virtually everyone, certainly not everyone, but virtually everyone who spoke at that public hearing spoke very strongly in favor of the State of Maine doing something to help preserve the future of the lobster industry and the other thing that the "Ought Not to Pass" Report ignores is over five surveys. Two of which you have seen tonight, have come across your

desk, that were directed toward lobster license holders. One you saw tonight came from Knox County. The one I sent around was in my district. All five of those surveys came back consistently with 80 percent support for a number of the issues that are in L.D 782, including the most controversial certainly, the idea of a trap limit, the idea of the limited entry, and an apprenticeship program.

This bill originated from fishermen. This bill is supported by the vast majority of Maine fishermen and we need your support for it. The reason I submitted a sister bill to the good Representative from South Bristol, Representative Rice's bill, earlier this session, was because in my campaigning I heard loud and clear on virtually every dock I went to, certainly not every dock, that's the nature of the business, but by in large, everyone I spoke to said, "Why should we send you up there? Why should we send you to Augusta? Every time we send someone to Augusta, nothing happens. We've been crying for years, we've been asking for years, for the State of Maine, the Governor of the State of Maine to do something to address these serious over fishing problems in this State, in terms of lobsters."

One of the biggest problems is the gear conflict issue, in my neck of the woods, it is a very large problem. Many are fed up with the people in Augusta sitting here and toying with their lives and ignoring their continued pleas, continued attempts to get something done up here. Ladies and Gentlemen, part of what the "Ought Not to Pass" Report also does is ignores the future of the lobstering industry. The reason I came to sign on in full support of the Majority "Ought to Pass" Report is that is my major concern. That's what I think on every bill that comes before us in the Marine Resources Committee. It ignores the future of the lobstering industry and as I said, when I look out into the crowd in front of our public hearings, or one of our work sessions on any issue before the Marine Resources Committee, I try to look beyond the people who are sitting in that room. I try to look beyond them, I look to the next generation or even the generation after that. I feel that is our most important duty is to protect this industry for the future, for the children and the grandchildren of the people who are attending those public hearings and I urge you strongly to join with me and support the "Ought to Pass" Report because that takes a pro-active approach to the lobster management issue. It takes an approach that is supported by the vast majority of fishermen. The vast majority of fishermen are upset at us probably because we don't go far enough with this proposal. They wish we had smaller trap limits. They wish we had a stricter limited entry proposal and in working this bill, we tried to reach a compromise that we thought took into account, as best we could, and still accomplish something, the concerns of the fishermen who are largely are in my area, Casco Bay. I have quite a few in my area who fish a great deal of gear. We tried very hard to take into account those fishermen who do fish a large amount of gear. That whole method of fishing originated in the Town of Harpswell, where I'm from, the fishing of large gangs of gear.

Twenty years ago when the Jackson Greenlaw Bill was first proposed to the Marine Resources Committee, a similar bill as to what's in front of you now, in a way, that bill was largely not supported but believe me, I've had countless phone calls and long conversations over the last few months above and beyond the survey that I've shared with you and they support, by in large, this proposal, similar proposal to this. This is not a perfect proposal. We're obviously going to have to fine tune this in the future. It is a start and if you care about the lobstering industry in this state, you will support the fishermen who have come to this committee and have come to this legislature asking for your support and you will support the "Ought to Pass," which is a pro-active Report which does something. It's not perfect ladies and gentlemen, it definitely isn't perfect. It isn't something I would have done solely on my own, but it is a very good first step. The zones, the apprenticeship, the limited entry, you've heard it all. I won't belabor the point. Please do not support the "Ought Not to Pass" and wait to support the "Ought to Pass" motion on this. Thank you.

On motion of Representative Kilkelly of Wiscasset, tabled pending the motion of Representative CLOUTIER of South Portland to accept the Report "B" "Ought Not to Pass" and later today assigned.

Representative KILKELLY of Wiscasset moved that the House extend until 10:30 p.m., pursuant to House Rule 22.

The same Representative requested a roll call on her motion to extend until 10:30 p.m.

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.

ROLL CALL NO. 220

YEA - Adams, Ahearne, Bailey, Benedikt, Bigl, Bunker, Campbell, Carleton, Chase, Chick, Chizmar, Cloutier, Clukey, Daggett, Damren, Davidson, Desmond, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gates, Gerry, Green, Guerrette, Hartnett, Hatch, Hichborn, Johnson, Jones, K.; Joyce, Joyner, Keane, Kontos, Lane, Layton, Lemaire, Lemont, Look, Lumbra, Madore, Marshall, Martin, Marvin, Mitchell EH; Mitchell JE; O'Gara, O'Neal, Peavey, Perkins, Pinkham, Poulin, Povich, Reed, G.; Richardson, Robichaud, Rosebush, Rowe, Savage, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Taylor, Thompson, Treat, Tripp, Tufts, Underwood, Volenik, Waterhouse, Watson, Wheeler.

NAY - Ault, Berry, Bouffard, Brennan, Buck, Cameron, Chartrand, Clark, Gieringer, Greenlaw, Heeschen, Heino, Jones, S.; Joy, Kilkelly, Labrecque, LaFountain, Lemke, Libby JD; Lindahl, Mayo, McAlevey, Murphy, Nass, Nickerson, Paul, Pendleton, Rice, Samson, Spear, Stedman, Stone, Truman, Tuttle, Tyler, Winn, Winsor.

ABSENT - Aikman, Barth, Birney, Cross, Dexter, DiPietro, Donnelly, Gamache, Gooley, Gould, Jacques, Joseph, Kerr, Kneeland, Libby JL; Lovett, Luther, McElroy, Meres, Morrison, Nadeau, Ott, Plowman, Poirier, Pouliot, Reed, W.; Ricker, Rotondi, Simoneau, Strout, Townsend, True, Vigue, Whitcomb, Winglass, Yackobitz, The Speaker.

Yes, 77; No, 37; Absent, 37; Excused, 0.

77 having voted in the affirmative and 37 voted in the negative, with 37 being absent, the motion to extend until 10:30 did prevail.

House Divided Report - Committee on **Marine Resources** - (7) Members Report "A" **"Ought to Pass"** as amended by Committee Amendment "A" (H-570) - (5) Members Report "B" **"Ought Not to Pass"** - (1) Member Report "C" **"Ought to Pass"** as amended by Committee Amendment "B" (H-571) on Bill "An Act to Establish a Management Framework for the Lobster Fishery within State Waters" (H.P. 577) (L.D. 782) which was tabled by Representative KILKELLY of Wiscasset pending the motion of Representative CLOUTIER of South Portland to accept Report "B" **"Ought Not to Pass.**

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I will try to be brief. While I gravely respect the knowledge and expertise of the members of this body who opposed this bill, I do want to urge you to defeat the pending motion. I do not claim to have the same level of expertise, probably wouldn't believe me if I did, but I represent many people who do and these lobstermen support and are asking for trap limits. Not only do I represent Munjoy Hill, but I represent many of the Casco Bay Islands, including the Town of Long Island. I have spoken at length with many of the lobstermen. I have spoken with Don McVain who is President of the West Casco Bay Lobstermen Association. Mr. McVain is 67 years old and has been a lobsterman all his life. Both of his sons are full time lobstermen. He told me that in his life he has fought against trap limits but in the last two years, he has realized that something has to be done. Trap limits may be the best way to preserve stocks in his opinion.

I got a fax yesterday from the lobster fishermen on the Town of Long Island, where lobstering is our main industry. It says, after some discussion, we have agreed, though distasteful, that trap limits have become necessary and I will share with you that 39 out of 40 lobstermen on Long Island favored trap limits. I urge you to oppose the pending motion and support the legislation. Thank you.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Tripp.

Representative TRIPP: Mr. Speaker, Men and Women of the House: I'll also be brief. I also met a lobsterman today. He was taller than I was so I listened. Just happened this lobsterman and his family had invested 30 years of their lives to build a business of 3,000 traps. I haven't heard one word on how you intend to compensate them for cutting back their income and their existing expenses. This seems to be the case of trying to fix something for the many at the expense of few fishing families who have built successful businesses by the good old method of risk taking, investment, and following the rules. If this bill passes, you'll be effectively reducing the opportunity of some fishermen to continue making a good living. Think of it. If you had a family business that was fashioned over 30 years with sweat and hard work, how would you like it if somebody took two-thirds of it away from you? Thank you.

The SPEAKER: The Chair recognizes the Representative from South Bristol, Representative Rice.

Representative RICE: Mr. Speaker, Ladies and Gentlemen of the House: I'm really not very happy about what's happened here, but I'll go on. I would urge you to defeat the pending motion and support the Majority Report. L.D. 782 has the support of 80 plus percent of the fishermen on the coast of Maine. I have pieces of paper here with 475 signatures on it, agreeing with L.D. 782, the Rice Bill. DMR also supports the bill and has promoted it all the way.

I'd answer a few of the things that were spoken about earlier. Canada has in place a much more restrictive plan, but out produces Maine by almost three times with trap limits of 250 to 350. Massachusetts also has a plan. It was also said earlier that Massachusetts did not have a plan, Massachusetts has a 800-trap limit with entry program. New Hampshire is also working on a management plan. Other fisheries have ignored the trouble they saw ahead and waited too long before they put conservation plans in place. Fishermen have tried to reduce efforts through legislation for 15 years, but this is the first time that a bill has made it to the floor of the House.

What do we want the lobster industry to look like 10 years from now? Do we want it something that our grandkids can go on to do or do we want it to look like the ground fish industry? If you'd like to keep the lobster industry healthy, pass L.D. 872, a plan to put future rules in the hands of the DMR and the local fishermen, who know best what is good for the fishery. Zone policies and other measures in L.D. 782 will do this.

A couple other issues I'd like to address, the dragger issue has been talked about, and talked about and talked about, well I spent quite a bit of time on a dragger on the coast of Maine. A lobster gets on the deck once in awhile, but I wasn't even allowed to cook one to eat because most Maine fishermen don't keep lobsters, drag lobsters, they throw them overboard. In years past, that didn't happen and the Massachusetts fleet does drag lobsters but if you even have one lobster on a dragger in the State of Maine you can loose your permits for that boat. I doubt if any Maine fishermen is going to take that chance too often.

There are very few people that will be affected by this legislation right away. There are probably 50 in the State of Maine who might be affected and I think we have built something into the plan to address that problem. Somebody said that the Commissioner would have all the power in this new legislation. Well, the Commissioner has a lot of power now if she wants to use it. The zone management policy will only be able to suggest to the Commissioner, rules and then between the two of them they can put the rules in place. As far as the tags go, we already have a tag system in place that we probably pay 15 or 20 cents for. The new tags will cost about 20 cents and this will pay for enforcement and other things that we need to do according to the Commissioner.

It seemed funny that we just had to go up to Canada to buy 20 thousand pounds of lobsters to let go in Maine for our seed stock. If we have so many lobsters that are seed lobsters, it would seem kind of strange that we had to do that. If we had to go somewhere else and buy lobsters to let go in Maine. I also heard another statement that it would cost 100 thousand dollars to get into the fishery. Well where I go, you can probably get into the fishery for a

thousand dollars, you can go down and buy an old rickety skip and somebody's old broken down traps and throw them in the river and you're lobster fishing, automatically. Another thing that took place this spring is, maybe we are seeing a change in the lobster harvest, everybody set their traps out. They didn't catch any lobsters and every lobster fishermen right now will tell you, they didn't catch any lobsters on the way in. Did we catch them all last year or have we depleted the stock? Something is going on, so I guess I would just urge you to support the Majority Report on the bill, thank you.

The SPEAKER: The Chair recognizes the Representative from Cherryfield, Representative Layton.

Representative LAYTON: Mr. Speaker, Men and Women of the House: Well my introduction into all this lobster business happened last December, right after the election. Representative Look and I attended a meeting in Ellsworth that called a group of lobstermen together. The Maine Lobstermen's Association called this meeting and attempted to persuade the local fishermen to accept the plan that we are currently debating, now this is way back in December. When the attempts at that meeting failed, that leadership from that Lobstermen's Association then started to push the slogan that we hear here tonight. If we don't do something, the federal government is going to do it for us and I'm only telling you this so that you don't think my colleagues on the committee are just brainwashed and this thing just came to being and the provisions of this bill just happened to show up by happenstance. What we have before us tonight, is a high powered effort by the MLA to eliminate the small lobster fishermen in Maine. The persuasive tactic being utilized by MLA is a New England Fisheries Management Council claim that the gulf of Maine is being over fished by 20 percent. When myself and others on the committee asked for documentation to support the claim, there was nothing made available. What I'm going to read to you comes from the New England Fisheries Management Council, Amendment 5, this plan mirrors what we're talking about tonight.

You heard the good Representative from Kittery, Representative Lemont, and the good Representative from Bucksport, Representative Bigl, talk about the science says this and the science says that. Let me tell you what the science says, I'll read it to you, some of it's technical but bear with me. "The estimated level of fishing mortality in the gulf of Maine assessment area for the period 1989 to 1991 was F equals 0.65, "whatever that means," and significantly has been steadily increasing at a rate of 5.5 percent per year since 1983. This level of F is substantially higher than the most likely estimate. It goes on to say the estimated level of F to the 10th power is .52, indicating that fishing mortality rates need to be reduced by 20 percent." There's your science. Estimated, used four times, it's all estimated. No science there.

The Maine Lobstermen's Association, the hierarchy in this organization, in my opinion, is a direct lackey of the New England Fisheries Management Council, who, by the way, again has this plan that mirrors ours. I want to read some more to you from this plan. "Trap limits would be difficult to enforce and it is uncertain how effective they would be in reducing fish mortality. At present it is not possible to determine the trap limit which would meet the biological targets. Because of these two points it is the feeling of a good portion of the fishery that in time any trap limits will still not suffice and we will then see catch being regulated by pounds," in other words the lobster fishermen will go out and fish and they will have an allocation of 10,000 pounds or 5,000 pounds a year as prescribed by the New England Fisheries Management Council, that's what they will be allowed to catch and no more. We'll move away from trap limits altogether and just get down to poundage. I'm going to read again, "Vessels processing documentation by the best available records with regard to specific catch levels will be assigned their average annual catch as the initial annual allocation for the second year of implementation of Amendment 5, that supports the per pound catch."

You've heard a lot of discussion tonight about surveys, 80 percent of this and 80 percent of that and 75 percent of this, you've each received copies of the surveys. I don't know if you have read them or not, but I have. When you're looking at the 80 percent, what are we talking about? The 80 percent, in Representative Etnier's survey, is an 80 percent of 23 percent of the respondents, at 580 sent out and had 103 respond, so it's not as broad based as you might think it is. It's 80 percent of the 23 percent respondents and the same is basically true for Senator Pingree's. So don't get the idea that this is a mass of fishermen that make up this 80 percent, it's a very small minority.

To answer the comment on the statement made by Representative Volenik and who initiated all these zones and apprenticeship programs. I think his comment was "These came from the Commissioner." These were first presented to the Committee by the Downeast Lobstermen's Association as a proposal for consideration. At that time, that Downeast Lobstermen Association was very close, we were very close, to coming into some sort of an agreement on implementing some of these things you've heard about tonight, but when we received a draft copy of a proposal to expand the dragger operations outside the three-mile limit and it was very obvious to see that nothing was going to be done to prohibit those draggers from taking our lobsters, the group of fishermen that I represent, which is a large group of fishermen, said all bets are off, not until they do something.

Representative Rice made a statement that Massachusetts has an 800-trap limit, which is true, but that trap limit is voluntary. That is a voluntary trap limit and it is not one that has been legislated by a body such as ours. I don't know what I have to do to convince you to see the long-ranged implications of Amendment 5 to New England Fisheries Management Council's Plan.

The plan is for the federal government to move into Maine's fishery and take it over. I know a lot of you, or most of you, who live away from the coast aren't really concerned, or stay up to date with some of the things that are happening with this industry, but this is a viable, and the only viable lobster industry in the entire world. It is my conclusion and the conclusion of the members of my colleagues, who are on this "Ought Not to Pass" Report, that this is exactly what's going to happen. I'm reading to you from the federal document. I've read to you the so called science out of this document. What's the conclusion that leads my conclusion is that there's

none, there is nothing to support any kind of trap limits.

Imagine the zones, if you will, just to take a few more minutes, you have a zone, thousands of fishermen in a zone. We can see from the committee and those of us who live on the shore that these lobstermen will never get the two-thirds vote required to implement any referendum. They just will not do that. Two-thirds of every licensed fishermen in that zone, it just is not going to happen. Even if it did happen, this bill allows the Commissioner to override that referendum if she deems it, in her discretion, necessary, which is taking it right away from the hands, but all you're hearing is, "Oh yea, this is going to be turned over to the fishery." Representative Bigl elaborated on that extensively. It's going to be turned over to the fishermen, ladies and gentlemen, I'm telling you it's not. If any of you have taken the time and I hope all of you did, to read the legislation, you will certainly see, that the Commissioner will have broad powers over this legislation. Ladies and gentlemen, I strongly urge you not to let us fall prey to the Maine Lobstermen's Association and the New England Fisheries Management Council. You can read the book, I have it. Thank you, Mr. Speaker.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: The Commissioner, who has been following this debate tonight, has been good enough to hand me sort of an outline of the difference between New England Fisheries Council Plan for regulating lobsters and what the majority report would do and there are some rather significant differences here.

For instance, the New England Fisheries Plan would call for a total moratorium on new licenses with no entry provisions at all and something I think is rather critical, would add a dollar value to the licenses to be bought and sold, and if anyone knows what happens, for instance cab medallions in New York City, which can go for a quarter of a million, $400,000, just to get entry into the cab business.

In the majority report we would have a limited entry into the fishery and it's a slow down kind of entry, building back traps, it is an apprenticeship program to get you in there and I think very importantly, has no dollar value on licenses, so we won't be having this over heated market of selling licenses. The New England Fisheries Plan would call for a 600 trap limit, no build down, it's just now. This plan calls for a 1,200-trap limit with a seven year build down for those who are in excess of 1,200 at the time. The New England Fisheries Plan has no self management for Maine. This plan not only allows Maine to manage the fishery but creates zones for self management, where individual zones may adjust the trap limits and things like that.

The New England Fisheries Plan, it has additional measures planned for each year, including mandatory throw-back of 300 pounds of lobsters, closed seasons and increased vent sizes. It's rather tyrannical measures, so I thought I would just put that on the record for the Commissioner as what the differences might be, thank you.

On motion of Representative KILKELLY of Wiscasset, tabled pending the motion of Representative CLOUTIER of South Portland to accept Report "B" **"Ought Not to Pass**.

Representative KILKELLY of Wiscasset moved that the House extend until 11:00 p.m. pursuant to House Rule 22.

A vote of the House was taken. 49 voted in favor of the same and 30 against, subsequently, the motion to extend did prevail.

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

House Divided Report - Committee on **Marine Resources** - (7) Members Report "A" **"Ought to Pass"** as amended by Committee Amendment "A" (H-570) - (5) Members Report "B" **"Ought Not to Pass"** - (1) Member Report "C" **"Ought to Pass"** as amended by Committee Amendment "B" (H-571) on Bill "An Act to Establish a Management Framework for the Lobster Fishery within State Waters" (H.P. 577) (L.D. 782) which was tabled by Representative KILKELLY of Wiscasset pending the motion of Representative CLOUTIER of South Portland to accept Report "B" **"Ought Not to Pass**.

The SPEAKER: The Chair recognizes the Representative from Cherryfield, Representative Layton.

Representative LAYTON: Mr. Speaker, Men and Women of the House: I would just like to add one more thing to respond to the good Representative Hartnett. What I'm holding here is proposed changes to the federal plan in the New England Fisheries Management Council over a five year period, reduction of 1,200 traps down to 600, 1,200 to 600, another look in the mirror, thank you, ladies and gentlemen.

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

Representative RICE: Mr. Speaker, Men and Women of the House: I guess I would like to comment on the comparison of the two plans. The plan that we have before us, L.D. 782, is so far from the federal management plan that you can't even call it a comparison.

There's a moratorium in the bill. There's a 600trap limit in the bill. There are so many things in the bill, this L.D. 782 is no comparison. There are two or three other little things that I would like to say, some comments of some fishermen that sent this down here. One says, "Save us from ourselves." Another one says, "Let's get realistic and forget politics, something needs to be done now." The next guy says, "The only threat from the state is to do nothing."

The majority of Maine fishermen have favored a limit for years. The vocal minority has done everything possible to block any attempt to institute a limit in the past and I'm sure will do so again. There's another one here that says, "I remember a few years ago, I called a fishermen a hog because he had 600 traps. Now I have almost twice that, you can't compare lobstering to a big parking lot full of cars, when the lot is full, go park elsewhere."

Lobstering areas are divided into territories as you are well aware. You are not allowed to move your traps over into another territory. Please support the Majority Report on L.D. 782, thank you.

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: I'm very pleased to live in and represent the City of Rockland, the lobster Capitol of the world. Knox County probably lands more lobsters than any other county in the country and therefore possibly the world.

As the good Representative Cloutier said, this fishery of lobsters is indeed the world fishery for this type of lobster. It's almost synonymous with the State of Maine for a lot of people. It's a symbol of our state and if the good Representative Lemke from Westbrook isn't successful, it will remain on our license plates for quite some time to come.

What I wonder about, is 100 years from now, what that fishery will look like. Will the good Representative from Rockland, 100 years from now be able to brag about the catches from Rockland and from Knox County? I sincerely hope so, but I don't think that will be the case unless we begin some effort of conservation now. Only if we begin to conserve will our generations that come after us be able to use this resource in the same way they have in the last few hundred years. We can look at many examples around the world of resources that seemed infinite for some time but ended up dwindling to the point where they were no longer used at all by those who harvested them. We won't be alone if we begin conservation efforts as you've heard tonight. There are trap limits in many of our neighboring states and provinces, Massachusetts, Prince Edward Island, New Brunswick, Nova Scotia, to name a few and most of those limits are less than those proposed by the majority amendment in this committee report.

I'm certain that the fishermen in Knox County do support this type of legislation. The questionnaire you've seen that was distributed by Senator Pingree and myself, although we did not get back 1,000 that we sent out, we got back 200 of those and that's a pretty good response to this type of questionnaire. The great majority of those supported all of the types of provisions of trap limits and other research conservation measures that would be in the majority report. In my own City of Rockland, virtually every respondent was in favor of trap limits. I can't say about those who didn't respond at all and whether they all do not support trap limits, but I have to work with the information I have and the fishermen that I've talked to. Therefore, I would conclude that the fishermen in Knox County do support this. I'd like to read you a little bit of a recent newspaper editorial from the Rockland Courier Gazette that speaks for a lot of the people in this area. "Given our coastal location and the economic importance of lobster fishing, the failure of lobster legislation at the committee level has stood out. The majority of Maine's fiercely independent lobster fishermen have stepped forward to make it clear they want to be part of the problem solving process, as concerns over-fishing and management of the resource. The committee's inability to reach an agreement on a bill to send to the House and Senate despite clear support for a plan from lobstermen has eroded the confidence of many fishermen, a confidence that took many years to build. It is this very type of action, or lack thereof, over the last few sessions that has helped dig the hole in which Maine now sits." Those are pretty strong words and I don't necessarily agree with all of them, but I think we have to look at that is the perception of many in the coastal communities. They look to the legislature to help them in working to conserve the resource that they depend on for their livelihoods.

I think the majority report in this case is pro-active and does something towards conservation. As some have said, it may not be perfect, it needs work, but it will be refined by the fishermen working with and by the Department of Marine Resources who support it, in the future, but we have to take steps now to begin that process. I would ask you to defeat Report "B" the "Ought Not to Pass" and move forward to pass the Majority "Ought to Pass" as amended Report, for the future of our lobster industry.

Speaking for myself, I think, one of the most important things I can do for my district in this two year term is to vote for and help you be convinced to vote for this Majority "Ought to Pass" Report if we defeat the "Ought Not to Pass" Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lamoine, Representative Pinkham.

Representative PINKHAM: Mr. Speaker, Ladies and Gentlemen of the House: I'll only be a minute, I know everybody's getting tired. Why do you think the catch has been record the last three years in the State of Maine? It isn't because there are more licenses, because I stated before there are 27 percent fewer licenses now than there were in the last 10 years. It's because of Maine's conservation laws that we have now. We already have conservation laws that are working and I think the true records and the facts speak for themselves. There's no hearsay here, these are the facts from the Department of Marine Resources records that the catch is record the last three years.

If this law goes through, it will give the Commissioner of Marine Resources complete control over the lobster fishery in the State of Maine. Complete control to do and make the regulations and laws that the Commissioner wants to do, without going through the legislature, or without going through the Marine Resources Advisory Council and I just feel this is a lot of power for one person to have when we are talking about a traditional fishery that can affect so many people in the State of Maine. There was talk a while ago that the codfish are coming back, so when the codfish come back that means the lobsters will go away. I guess that was the intention of the remarks. Nothing in this bill stops codfish from eating lobsters and there's no doubt, codfish do eat lobsters, but lobsters eat fish so mother nature takes care of this. They all have to feed on something. I don't think it was the lobsters that wiped the codfish out and I don't think the codfish coming back will wipe the lobsters out. Maine has sound conservation laws now, and the lobster fishery is good. Why do something that we're not sure of?

All the records that people are talking about, points in over fished and things like that, are being done by out-of-state firms, from Woodshole, they're being done in the gulf of Maine which is 85 percent outside of Maine waters, where they drag for lobsters. This has nothing to do with the Maine fishery in shore. There's no dragging in shore, as a result, there's only 15 percent of Maine waters that's in the gulf of Maine, so all these scientific studies have no bearing on the catch of lobsters in the State of Maine. If it did, then the State of

Maine lobster catch would be down, that's what scientists say, but it's not, it's up and it has been for quite a few years. So I ask you to please vote "Ought Not to Pass" on this and keep the healthy fishery in the State of Maine. Thank you.

The SPEAKER: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative Lindahl: Mr. Speaker, Men and Women of the House: I would just like to speak about Canada's trap limit. Prince Edward Island has two zones. One zone has 1,000 licensed fishermen with a 300-trap limit. The other zone has 306 licensed fishermen with a 250-trap limit. Those two zones combined landed 44 million pounds of lobster in an eight week season. New Brunswick, 1,666 licensed fishermen in those two zones, one zone has 300-trap limit and the other has 375-trap limit, they landed 16 million pounds in eight weeks. Nova Scotia and Cape Breton has 3,407 fishermen with a trap limit of 375 in one zone and 300 in another zone. They landed 45 million pounds of lobsters. Quebec only has 649 licensed fishermen with either a 300 or less trap limit, they landed 6 million pounds in eight weeks. Newfoundland has 150 to 200 trap limit with an eight week season, landed 6 million. All told, eastern Canada has anywhere from two and a quarter million, to two and a half million traps in the water, landed 95-100 million pounds of lobsters. Are they doing something right? Their season, for the most part, is eight weeks. The longest season is six months. Maine fishermen fish year round and land 41 million pounds and we consider that great. Well I think maybe Canada is doing something right and maybe we ought to be following their example and let the other states follow ours. Thank you.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I really don't know where to start tonight, I'm a little appalled at what I have witnessed here tonight.

We are talking about the third largest industry in the State of Maine and from what I have observed, I don't think many people are taking it too seriously. I would like to tell you a little bit about the history that we have experienced in our committee this year, on this particular issue. We had hearings. We had the bill, the L.D., the formal L.D. that came before us, we had many L.D's, and as the committee we decided that we would use one particular legislative document as the vehicle to develop this plan. The others were discarded but their contents were not. They were considered in the deliberations. What was presented to us for final vote, for vote in committee, the vote that was taken in committee, is a six page document and was voted on and it is dated June 12th.

Between then and yesterday, or the day before, there were approximately four papers developed, until we got what you have been delivered on your desk, dated June 15th, which is now nine pages long. Something happened on the way to the forum, folks, more was added, but let me tell you that the minority membership on this report was not involved in that. Let's look at it. You have heard Representative Pinkham go through this and explain to you as a member who has worked with the Department, what this is saying. We have been told this is not like the federal plan, however, I too, have a copy of the federal plan, it's the proposal for the management of American lobster, a public hearing document, the American Lobster Fishery Management Plan, prepared by the New England Fisheries Management Council and the Atlantic States Marine Fisheries Commission in consultation with the Natural Marine Fishery Service. This was prepared for the May 16th meeting down in Massachusetts, however, it was never floated. At that time, they thought that Maine would have their work all done and it wasn't done, so it was tabled.

Now, the preamble of this document reads like this: "The most recently available resource stock assessments, which is the document dated 1993, indicated that the gulf of Maine stock area is over fished and that the fish mortality rate needs to be reduced at least 20 percent to eliminate the over fished condition," but it goes on, "despite the available stock assessment, the lobster industry shares a wide-spread opinion in light of more recent catch levels of marketable lobsters, sub marketable sized lobsters and egg bearing female lobsters, that the current condition of the resource may be healthier than the available stock assessment indicated." They admit it, that it wasn't accurate. Now, it goes on, that's the preamble, the proposed management measures, an ethic cap, trap limits, the following proposed measures the design to cap fishing effort, preventing further escalation an effort which would circumvent proposals, designed to reduce the fishing mortality rate. As such, these measures to cap effort would be implemented prior to implementation of the major elements of the effort reduction program.

Number one item, number of traps, the number of traps per vessel in area one, which the Maine coast is a part of, shall be capped at 1,200 in the first year of the plan implementation. This number will be reduced by 150 traps per year over the next four years of plan implementation, to phase in a trap cap of 600 traps per vessel in area one. Where do you suppose this thing that we got ever got those numbers? Our proposal is 1,200 and to be phased down. Then it goes on, compliance, it is proposed that a trap tag system be developed by December 31st, 1996 and implemented as soon as possible thereafter. In light of the fact that several of the effort management team, these are called EMT's, there are three in each area and they bring the opinions in to the federal government, these effort management teams have proposed trap tags, it is likely that the most productive approach to the development of a trap tag system would be a cooperative endeavor by all of the effected EMT's. There is agreement, however, that the cost of trap tags would be borne by the fishermen. This proposal has trap tags, gee, that's strange.

Fishing period, trap hauling in area one shall be limited to the period between sunrise and sunset, we always had that. The fishing mortality reduction and then it goes on to propose that the fisherman, option A reads, return a portion of the female catch. Every holder of a federal limited access lobster permit will return, that means throw it overboard, three percent of their catch of marketable female lobsters to the ocean annually after being "V" notched. Catch them, throw them back, folks, but they're females, so we need to throw them back if we're going to continue to have the production of lobsters. The Maine fishermen have been doing this anyway, but what has happened to some of those? A lot of those have been

picked up in the drags, taken into the Massachusett's markets and some into the illegal behind the scenes market and sold or scrubbed of the eggs. This has been reported this year.

Maximum carapace length, Maine has adopted a carapace length and changed it, but this is a recommendation that a maximum carapace length of five inches be adopted throughout area one, all fishermen, commercial and recreational employed all gear types would be subject to this requirement. Folks, the Maine fishermen do not fish the five-inch lobster. That has been banned for quite awhile. This is proposed that they go to the big lobster. Fishermen who operate from ports in area one and who fish exclusively in area three, should have a specific exemption from this requirement noted on their permits, area three is south of the lower New England states.

It calls for a Sunday closure, which is fine, and then it goes on. The non trap gear section, this morning you heard about the draggers, tonight you have heard about the draggers, and that's what we're talking about in the non trap gear section proposals to manage American lobsters. TAC for the non trap fishery, now TAC stands for total allowable catch, quotas, folks, quotas. The non trap lobster fishery, in area three, shall fish under a section share quota established through documented creditable landings of catch records comparable to those used to establish the trap sector share. In the absence of individual landing records, there shall be an assumption that the statistical gathering systems provide equivalent coverage for all sections of the industry and that the official statistics are therefore appropriate for the determination of sector share. Now listen to this one, the statistical data gathering system is not dependent on nor concerned with individual reporting of lobster landings for purposes other than fisheries management and is therefore not influenced by such reporting, or lack of such reporting.

Now we go to the non trap lobster fishing permits, there shall be three categories of non trap fishing lobster permits, category one, is a non trap lobster permit by catch only. Now this means other fish caught in those drags, they may not be out there, presumably, to catch lobsters, they are out there, presumably, to catch fin fish, but there may not be that many fin fish to make it good for them to be out there, so they are allowed the by-catch of lobsters. Then we have category two, which is non trap lobster permit seasonally directed. If the seasonally directed non trap fishery is controlled through individual quotas, the non trap quota may be converted into a trap fishery individual quota and will be transferable. Category three, non trap lobster permit, non trap vessels fishing under this permit category must carry a VTS system. I don't know what a VTS system is, I won't even try to guess, but I suspect it's a radio, because it says, must call in prior to landing and will be limited by a total allowable catch for the directed non trap lobster fishery. If the directed non trap fishery is controlled through individual quota, the non trap quota may be converted into a trap fishery individual quota and it will be transferable.

Folks, this is the plan. This is the pattern that the plan before you is copied from. More has been added to the bill that you are considering. Representative Pinkham outlined to you what the plan says, how it will be administered. No one is criticizing the ability of our current commissioner, but when a plan goes in place the word, "commissioner," stays in the plan and it refers on through the years to the individual who is in that position.

These are some of the things that disturb us. Last March I went to the fishermen's forum, too, and knowing the condition of the off-shore fishery because there has been plenty in the news media as to how it has been devastated, I asked a Representative of the New England Fisheries Management, I said, "When are you going to acknowledge that the Maine fishermen have developed their own conservation measures by doing these things, the trap size, the carapace size, and there is one more, but right now it escapes me?" His response to me was, "Well we don't recognize that, and we're not going to." I said, "Why not?" "Well, we don't have the scientific evidence to substantiate that it's doing any good." Ladies and gentlemen, I think this is terrible. The Maine fishermen have tried, the Maine fishermen have taken the first step, the other states have not. I also asked him, "Are you going to impose the work that Maine has done on the other states in the northeast?" "No, we're not." This is what we are up against.

Now three miles is not very far out into the ocean, you can see it from the shore. When you speak about draggers, they don't come inside the three-mile limit, folks, let me tell you something, they do. I have seen one inside Moosabec Reach, which is between Jonesport and Beals, and I've had many complaints about it. Furthermore, we can't do anything about it. First of all, we don't have the equipment to handle this, secondly, and this I have experienced in the last week, we have a warden force that refuses to do anything.

Last Saturday, I had a fisherman come to me and he said, "Theone, I saw four draggers in the river, and we have a narrow river." The Jonesboro fishermen fish at the mouth of that river. The lobster fishermen, and he came through a gut between a point of land and an island and surprised them and he watched them and came up along side and they went three abreast up through all those lobster traps and left the buoys floating. This man picked up the buoys to return them to the owners, because he knew who they were. I called, and I called, and I finally located one man in the sheriff's office. I'm familiar with that establishment over there, because I know the RCC, which is our radio network, they congregate there and watch television. I finally got him corralled and talked to him. Well he was a new guy, he didn't know the area. He said, "Well, that's not my district." I said, "Last week it was your district when these draggers were down in Roque Bluffs and nobody responded." Well he said, "I was doing something else." He said, "I'll call the warden who has that district," and he told me who it was and I let him know what I thought of him. So he called them up and the warden called the man who had caught these draggers and he said to him, "Well I can't do anything because the only way we can do anything, my word isn't any good in court, I've got to see them doing it." Well anybody knows that they are not going to drag through lobster traps when there is a warden around, this is what we are up against, folks. It is not right. There is a law against gear conflict, but it isn't being enforced. I dread to see the stipulations that the federal

government has done to come inside the three-mile limit. Look what's happened out there. It's been desecrated, the fishermen are telling me the bottom is as bare as can be. There's nothing there. We have had off-shore fishing. We have had Fawn Fleet in our twelve-mile limit. I want the twelve-mile limit, but let me tell you something, it's going to cost money. It's going to cost big bucks. This fishery is worth fighting for. This fishery is the livelihood of the people on the coast of Maine.

If this fishery goes down, and I fear it will, because with all of these regulations, we're not going to see the communities as they are. They have been close knit communities. They have looked after each other and if they can not earn their living to the extent that they are used to doing, and I mean they need to do it, they have children they want to send through school. Those children grow up on the coast, they work with their fathers and their mothers and they'd like to follow in this industry, but if they haven't had a boat and own it and run it, they can't get a license. Representative Pinkham told you that the way this bill is worded. This is not the right approach, folks. We need to look at this and fit it, not to the federal government, but fit it to the Maine fishermen. This is why you have the Minority "Ought Not to Pass" Report. It isn't the way to go. I came here this year hoping that we could do something that was going to be beneficial to the industry, to preserve the rights of people to go out there and fish, and let me tell you, the right to fish has been extended to this continent through the Magna Carta and it has come up through the Commonwealth of Massachusetts, when we were part of it. It is the right of every person to go and fish. I don't think we should be curtailing them in any way, in their right to go. Not everybody is going to fish 3,000 traps, they have been fishing what they feel they personally can handle, but as you've heard before tonight, with the trap cap the way it is, then the others are going to say, "Well, if that's what it's going to be, then I'm going to build up." You're not going to have any conservation.

There's more to this bill and I've told you this before we came in here tonight, there's more to this bill than you've heard in the hallways. Please, consider what I have said, this is serious business. It is a way of life, and remember if those people can't earn a living out there fishing, you're either going to subsidize them with welfare, or programs that's going to cost more tax dollars. Thank you, Mr. Speaker.

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

Representative BIGL: Mr. Speaker, Men and Women of the House: You have heard a number of things tonight and one of the things you just heard loud and clear is that the federal government is taking very seriously the conservation efforts that Maine has already put forward. Secondly, I want to tell you, you all recognize this because you all know the power you have back in your district, the more people you have behind you the more powerful you are, the more you can do up here. That's power. Now let's look at what Maine is going to have to do instead of sitting here shivering at the federal government, let's do something to the federal government. Now, I know how to do that and I think you do too. Let's be powerful, let's have a Governor, a Commissioner, Joint Standing Committee of Marine Resources and the greatest majority of fishermen that we have out on the coast all standing together saying, "Okay folks, we've got it in place. Now you've got to put it in place. There are things that we need from you and we got the power to do that then." Let's organize, let's bring together all the things that we talked about tonight. Let's put thumbs down on the "Ought Not to Pass" and let's go on and hit the "Ought to Pass." Thank you.

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

Representative CLUKEY of Houlton requested a roll call on the motion to accept Report "B" **"Ought Not to Pass."**

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 Report B "Ought Not to Pass." All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 221

Representative PERKINS of Penobscot was excused from voting pursuant to House Rule 19 and Joint Rule 10.

YEA - Adams, Ahearne, Bailey, Bunker, Campbell, Cloutier, Clukey, Desmond, Driscoll, Fisher, Gieringer, Greenlaw, Jones, S.; Joy, Joyce, Keane, Kerr, Layton, Lemke, Look, Lumbra, Madore, Murphy, Nass, Nickerson, O'Neal, Paul, Pinkham, Pouliot, Robichaud, Rosebush, Stedman, Tripp, Truman, Underwood, Wheeler, Whitcomb, Winsor.

NAY - Aikman, Ault, Benedikt, Berry, Bigl, Bouffard, Brennan, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Daggett, Damren, Davidson, DiPietro, Donnelly, Dore, Dunn, Etnier, Farnum, Fitzpatrick, Gates, Gerry, Green, Guerrette, Hartnett, Hatch, Heino, Hichborn, Johnson, Jones, K.; Joseph, Joyner, Kilkelly, Kontos, Labrecque, LaFountain, Lane, Lemaire, Lemont, Libby JD; Lindahl, Marshall, Martin, Marvin, McAlevey, Mitchell EH; Mitchell JE; Morrison, O'Gara, Ott, Peavey, Pendleton, Plowman, Poulin, Povich, Rice, Richardson, Rowe, Samson, Savage, Saxl, M.; Shiah, Simoneau, Spear, Stevens, Stone, Taylor, Thompson, Townsend, Treat, Tufts, Tuttle, Tyler, Volenik, Waterhouse, Watson, Winn.

ABSENT - Barth, Birney, Buck, Cameron, Cross, Dexter, Gamache, Gooley, Gould, Heeschen, Jacques, Kneeland, Libby JL; Lovett, Luther, Mayo, McElroy, Meres, Nadeau, Poirier, Reed, G.; Reed, W.; Ricker, Rotondi, Saxl, J.; Sirois, Strout, True, Vigue, Winglass, Yackobitz, The Speaker.

Yes, 38; No, 80; Absent, 32; Excused, 0.

38 having voted in the affirmative and 80 voted in the negative with 32 being absent, Report "B" **"Ought Not to Pass"** was not accepted.

Representative LIBBY of Buxton requested a roll call on acceptance of Report "A" **"Ought to Pass"** as amended.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members

present and voting. All those in favor will vote yes; those opposed will vote no.

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

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

Representative CLOUTIER: Mr. Speaker, Men and Women of the House: Just briefly, I just want to let you all know that this is an imperative vote. This will end the fishing industry in the State of Maine if you vote against this bill. Believe me, the New England Fisheries Management Council can compel every state, not just the State of Maine, for trap limits, they compel every state.

Not one of the New England states has trap limits and we are now, tonight, putting trap limits on our lobstermen and down the road there won't be any lobstering here in the State of Maine. It will all be a dragging industry. Think about it before you vote. Give it some thought. I'm telling you the truth. Vote no on this pending motion.

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

ROLL CALL NO. 222

Representative PERKINS of Penobscot was excused from voting pursuant to House Rule 19 and Joint Rule 10.

YEA - Ault, Benedikt, Berry, Bigl, Brennan, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Daggett, Davidson, Dore, Dunn, Etnier, Farnum, Fitzpatrick, Gates, Hartnett, Hatch, Heino, Hichborn, Johnson, Jones, K.; Joyner, Kilkelly, Kontos, Labrecque, LaFountain, Lane, Lemaire, Lemont, Lindahl, Marshall, Martin, Marvin, McAlevey, Mitchell EH; Mitchell JE; O'Gara, Peavey, Pendleton, Plowman, Povich, Rice, Richardson, Rowe, Samson, Savage, Saxl, M.; Shiah, Simoneau, Spear, Stevens, Stone, Taylor, Thompson, Treat, Tufts, Tuttle, Tyler, Volenik, Watson, Winn.

NAY - Adams, Ahearne, Bailey, Bouffard, Bunker, Campbell, Cloutier, Clukey, Damren, Desmond, Driscoll, Fisher, Gerry, Gieringer, Green, Greenlaw, Guerrette, Joy, Joyce, Keane, Kerr, Layton, Lemke, Libby JD; Look, Lumbra, Madore, Murphy, Nass, Nickerson, O'Neal, Paul, Pinkham, Pouliot, Robichaud, Rosebush, Stedman, Tripp, Truman, Underwood, Waterhouse, Wheeler, Whitcomb, Winsor.

ABSENT - Aikman, Barth, Birney, Buck, Cameron, Cross, Dexter, DiPietro, Donnelly, Gamache, Gooley, Gould, Heeschen, Jacques, Jones, S.; Joseph, Kneeland, Libby JL; Lovett, Luther, Mayo, McElroy, Meres, Morrison, Nadeau, Ott, Poirier, Poulin, Reed, G.; Reed, W.; Ricker, Rotondi, Saxl, J.; Sirois, Strout, Townsend, True, Vigue, Winglass, Yackobitz, The Speaker.

Yes, 65; No, 44; Absent, 41; Excused, 0.

65 having voted in the affirmative and 44 voted in the negative with 41 being absent, Report "A" **"Ought to Pass"** as amended was accepted.

The Bill was read once. Committee Amendment "A" (H-570) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-570). Ordered sent forthwith.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

Representative CARLETON of Wells moved that the House reconsider its action whereby the Minority **"Ought Not to Pass"** Report was accepted on Bill "An Act Regarding Unredeemed Deposits on Beverage Containers" (H.P. 506) (L.D. 687).

On further motion of the same Representative, tabled pending his motion to reconsider and specially assigned for Friday, June 23, 1995.

On motion of Representative O'GARA of Westbrook the House adjourned at 11:25 p.m. until 9:30 a.m., Friday, June 23, 1995.