

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
66th Legislative Day
Monday, June 26, 1995

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

Prayer by Father Clement Thibodeau, St. Joseph's Catholic Church, Gardiner.

Pledge of Allegiance.

The Journal of Friday, June 23, 1995 was read and approved.

COMMUNICATIONS

The following Communication: (S.P. 596)

STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0001

June 21, 1995

To the Honorable Members of the 117th Legislature:

I am returning without my signature or approval S.P. 234, L.D. 599, "An Act to Reimburse Former Temporary Hearing Officers of the Workers' Compensation Board for Lapsed Vacation Time." This bill would pay three former Workers' Compensation Commissioners a total of \$13,528 for vacation time they earned and accrued over the maximum allowed, but were unable either to use before they terminated or to be paid for when they left. In addition, this bill would allow those former commissioners who have been rehired into State service to keep longevity pay and higher rates of vacation accrual, as if they had not terminated their State service when they left the Workers' Compensation Commission.

The bill is objectionable on two grounds. First, the State has a firm policy that departing employees will not be paid for vacation time above the maximum. The written policy applies to all bargaining unit and confidential employees. In seeking to compensate the former commissioners for unused vacation time over the allowed limit, this bill provides special treatment for a tiny and select group of former employees. Over two thousand (2,000) other State employees now have on the books vacation time that exceeds the maximum allowed, largely as a result of past furlough and shutdown days. During the coming biennium, several hundred of these employees will leave State service, whether through attrition or layoff. None of these employees will be compensated for vacation time over the limit, even though in many cases there are compelling reasons why the employees were prevented from using the vacation time they earned.

Secondly, the bill intrudes upon the collective bargaining agreement that now covers the former commissioners who have been rehired into State service by allowing them to retain longevity pay and vacation accrual rates as if they had not had a break in service. Longevity rates and accrual rates are subjects for bargaining, and in fact are addressed in the current contracts. The contracts specifically dictate the effect of prior State service on accrual rates. This bill contradicts those provisions.

It is true that the Workers' Compensation commissioners were in an unfortunate and difficult situation. However, that has been and will continue to be true for many, many State employees. I see no

compelling reason to make an exception here or to supersede collective bargaining agreements without an extraordinary public purpose.

Because of the objections outlined above, I am in firm opposition to L.D. 599 and I respectfully urge you to sustain my veto.

Sincerely,

S/Angus S. King, Jr.

Governor

Came from the Senate read and ordered placed on file.

Was read and ordered placed on file in concurrence.

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

In Senate, June 22, 1995, this Bill, having been returned by the Governor, together with his objections to the same, pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the Senate proceeded to vote on the question: "Shall this Bill become law notwithstanding the objections of the Governor?"

25 voted in favor and 10 against, and accordingly it was the vote of the Senate that the Bill become a law, notwithstanding the objections of the Governor, since two-thirds of the members of the Senate so voted.

S/May M. Ross

Secretary of the Senate

On motion of Representative MITCHELL of Vassalboro, tabled pending reconsideration and later today assigned.

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative TREAT from the Committee on Judiciary on Bill "An Act Adopting the Uniform Health-care Decisions Act" (H.P. 182) (L.D. 230) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-605)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-605) 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-605) and sent up for concurrence.

Ought to Pass as Amended

Representative TREAT from the Committee on Judiciary on Bill "An Act to Implement the Recommendations of the People with Disabilities Access Commission" (H.P. 837) (L.D. 1168) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-604)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-604) 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-604) and sent up for concurrence.

Ought to Pass as Amended

Representative TREAT from the Committee on Judiciary on Bill "An Act to Reduce Theft in the Forest Products Industry" (H.P. 1065) (L.D. 1500) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-612)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-612) 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-612) and sent up for concurrence.

Ought to Pass as Amended

Representative ROWE from the Committee on Business and Economic Development on Bill "An Act to Create Uniformity in Laws Governing Various Professional Licensing Boards and Commissions" (H.P. 1102) (L.D. 1549) (Governor's Bill) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-592)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-592) 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-592) and sent up for concurrence.

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

Divided Report

Majority Report of the Committee on Human Resources reporting "Ought Not to Pass" on Bill "An Act to Limit Aid to Families with Dependent Children Benefits" (H.P. 49) (L.D. 43)

Signed:

Senator: PINGREE of Knox
Representatives: FITZPATRICK of Durham
JOHNSON of South Portland
SHIAH of Bowdoinham
ETNIER of Harpswell
MITCHELL of Portland
JONES of Bar Harbor

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-593) on same Bill.

Signed:

Senators: PENDEXTER of Cumberland
BENOIT of Franklin
Representatives: JOYNER of Hollis
MARVIN of Cape Elizabeth
WINGLASS of Auburn
LOVETT of Scarborough

Was read.

On motion of Representative MITCHELL of Vassalboro, 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-599) on Bill "An Act to Abolish the Maine Health Care Finance Commission" (H.P. 269) (L.D. 371)

Signed:

Sensor: PINGREE of Knox
Representatives: FITZPATRICK of Durham
JOHNSON of South Portland
SHIAH of Bowdoinham
ETNIER of Harpswell
MITCHELL of Portland
JONES of Bar Harbor

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-600) on same Bill.

Signed:

Senators: PENDEXTER of Cumberland
BENOIT of Franklin
Representatives: JOYNER of Hollis
MARVIN of Cape Elizabeth
WINGLASS of Auburn
LOVETT of Scarborough

Was read.

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

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-601) on Bill "An Act to Protect Constitutional Property Rights and to Provide Just Compensation" (H.P. 867) (L.D. 1217)

Signed:

Senators: MILLS of Somerset
FAIRCLOTH of Penobscot
Representatives: TREAT of Gardiner
LEMKE of Westbrook
RICHARDSON of Portland
JONES of Bar Harbor
LaFOUNTAIN of Biddeford
WATSON of Farmingdale
HARTNETT of Freeport
MADORE of Augusta

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-602) on same Bill.

Signed:

Sensor: PENDEXTER of Cumberland
Representatives: PLOWMAN of Hampden
NASS of Acton

Was read.

On motion of Representative TREAT of Gardiner, tabled pending acceptance of either Report and later today assigned.

CONSENT CALENDAR

First Day

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

(H.P. 1107) (L.D. 1555) Bill "An Act to Amend the Emergency Planning and Community Right to Know Laws" Committee on Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-603)

Under suspension of the rules, second day consent calendar notification was given.

There being no objections, the Bill was passed to be engrossed as amended and sent up for concurrence.

ENACTORS

An Act to Create a Tax Reduction Program (S.P. 98) (L.D. 238) (H. "B" H-511 to C. "A" S-115)

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

On motion of Representative MITCHELL of Vassalboro, was set aside.

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

An Act to Require That Additions to the Endangered Species List Be Approved by the Legislature (S.P. 167) (L.D. 428) (C. "A" S-248; S. "B" S-274)

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

On motion of Representative MITCHELL of Vassalboro, was set aside.

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

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

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

On motion of Representative DAGGETT of Augusta, 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. 1348 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-516) was adopted.

The same Representative presented House Amendment "A" (H-598) to Committee Amendment "A" (H-516) which was read by the Clerk.

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

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

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Thank you. Could the good Representative, Representative Daggett explain what the House Amendment does. We don't seem to have it on our desks. I don't have it in my folder.

The SPEAKER: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to the Representative from Augusta, Representative Daggett. The Chair recognizes that Representative.

Representative DAGGETT: Mr. Speaker, Men and Women of the House: The amendment is on my desk and I am sorry it hasn't appeared on others, but it is a technical amendment that changes some punctuation and

makes reference to the committee of jurisdiction. It is just a technical amendment.

House Amendment "A" (H-598) to Committee Amendment "A" (H-516) was adopted.

Committee Amendment "A" (H-516) as amended by House Amendment "A" (H-598) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-516) as amended by House Amendment "A" (H-598) thereto in non-concurrence and sent up for concurrence.

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

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, June 23, 1995, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

Resolve, Requiring a Study of How the State Should Regulate Naturopaths (EMERGENCY) (H.P. 1087) (L.D. 1532) (C. "A" H-508)

TABLED - June 21, 1995 by Representative LUTHER of Mexico.

PENDING - Motion of same Representative to reconsider Final Passage.

Subsequently, the House voted to Reconsider.

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

On further motion of the same Representative, the House reconsidered its action whereby L.D. 1532 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-508) was adopted.

The same Representative presented House Amendment "A" (H-613) to Committee Amendment "A" (H-508) 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: My understanding is that the bill was tabled due to a concern that the task force be required to recommend how to license naturopaths and that was not the intent of the committee. The intent was that the task force determine how to regulate a naturopath and that may include certification, registration or other means. This amendment makes that clear. I request your support for the motion. Thank you.

House Amendment "A" (H-613) to Committee Amendment "A" (H-508) was adopted.

Committee Amendment "A" (H-508) as amended by House Amendment "A" (H-613) thereto was adopted.

Representative LUMBRA of Bangor requested a roll call on passage to be engrossed 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.

On motion of Representative ROWE of Portland, tabled pending passage to be engrossed as amended and later today assigned. (Roll Call Ordered)

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

TABLED - June 23, 1995 (Till Later Today) by Representative HICHBORN of Lagrange.
PENDING - Final Passage.

On motion of Representative GAMACHE of Lewiston, rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby L.D. 1514 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-477) was adopted.

The same Representative presented House Amendment "A" (H-614) to Committee Amendment "A" (H-477) which was read by the Clerk.

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

Representative GAMACHE: Mr. Speaker, Men and Women of the House: The purpose of this amendment is to correct a minor error in the bill itself. The bill L.D. 1514 is a Governor's proposal to establish a study group to look into the liquor business of the state. As written, the bill calls for the appointment of committee members by the House and Senate Chairs of the committee. This it turns out is against the rules or are not in compliance of the Rules of the House and Senate. The amendment changes this so that the Speaker and President of the Senate are restored their proper roles. Thank you.

House Amendment "A" (H-614) to Committee Amendment "A" (H-477) was adopted.

Committee Amendment "A" (H-477) as amended by House Amendment "A" (H-614) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-477) as amended by House Amendment "A" (H-614) thereto in non-concurrence and sent up for concurrence.

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

SENATE PAPERS

Ought to Pass as Amended

Report of the Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-240) on Bill "An Act to Extend the Final Determination of a Fresh Start Policy Year Status" (S.P. 299) (L.D. 838)

Came from the Senate with the Report read and the Bill and accompanying papers indefinitely postponed.

Report was read and the Bill and all accompanying papers were indefinitely postponed in concurrence.

Non-Concurrent Matter

Resolve, Authorizing Glen Greenhalgh to Sue the State of Maine and the Department of Human Services (H.P. 786) (L.D. 1103) on which the Minority "Ought to Pass" as amended Report of the Committee on Legal

and Veterans Affairs was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-355) in the House on June 23, 1995.

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

On motion of Representative BAILEY of Township 27, the House voted to Adhere.

Non-Concurrent Matter

Bill "An Act Concerning the Kennebec Water District" (H.P. 937) (L.D. 1326) which was passed to be engrossed as amended by Committee Amendment "A" (H-527) in the House on June 20, 1995.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-527) as amended by Senate Amendment "A" (S-313) thereto in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

Resolve, to Require the Brookton Elementary School to be Used as a Community Center for Northern Washington County (H.P. 1131) (L.D. 1576) which was passed to be engrossed as amended by House Amendment "A" (H-559) in the House on June 22, 1995.

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-559) as amended by Senate Amendment "A" (S-321) thereto in non-concurrence.

The House voted to Recede and Concur.

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

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Modify the Licensure Act for Substance Abuse Counselors" (H.P. 1008) (L.D. 1419) which was passed to be engrossed as amended by Committee Amendment "A" (H-427) as amended by House Amendment "A" (H-583) thereto in the House on June 22, 1995.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-427) as amended by Senate Amendment "A" (S-326) and House Amendment "A" (H-583) thereto in non-concurrence.

On motion of Representative ROWE of Portland, the House voted to Recede and Concur.

SENATE PAPERS

Divided Report

Majority Report of the Committee on Business and Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (S-279) on Bill "An Act to Provide Greater Access to Health Care" (S.P. 343) (L.D. 948)

Signed:

Senators:

HARRIMAN of Cumberland
CIANCHETTE of Somerset
GOLDTHWAIT of Hancock
ROWE of Portland
BRENNAN of Portland
CAMERON of Rumford
DAVIDSON of Brunswick

Representatives:

KONTOS of Windham

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "B" (S-280) on same Bill.

Signed:

Representatives: BIRNEY of Paris
LIBBY of Kennebunk
POVICH of Ellsworth
REED of Dexter

Was read.

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

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

Representative ROWE: Thank you Mr. Speaker, Colleagues of the House: Maine's current nursing law does not adequately or accurately define professional nurses that have advanced education. Current law allows nurses who are approved for advanced practice to perform certain medical diagnosis or prescriptions of medication only when those services are delegated in writing by a licensed physician. The law does not define the full range of health care services that advanced professional nurses are educated and qualified to provide.

The Majority Report on L.D. 948 will correct this situation. The Majority Report includes four categories of registered nurses with advanced education. They are certified nurse practitioner, certified nurse midwife, certified clinical nurse specialist and certified nurse anesthetist. The Majority Report establishes the criteria for approval as an advanced practice registered nurse. Two important criteria are, number one, successful completion of an advanced education program and for all specialties, but one, that is a master's degree. Number two, it includes the national certification credential. Additionally as I am sure you know, the other body amended the Majority Report to require that an advanced practice registered nurse practice for at least two years under the supervision of a licensed physician or as an employee of a hospital or clinic who has a licensed physician as a medical director. After the two year period, advanced practice nurses can practice without the continuous supervision of a physician. The members on the Majority Report in this body support the two year supervision requirement.

The Majority Report creates the Joint Practice Council on Advanced Practice Registered Nursing. The council consists of the Chairs of the Board of Nursing, the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Pharmacy Board, an Advanced Practice Registered Nurse, who is a member of the Board of Nursing and one member of the public. The council will make recommendations to the Board of Nursing on prescription practice, as well as other matters that it considers appropriate. I know that you have been lobbied hard on this bill. I am sure you have heard of the Majority Report. You have heard about the differences between the levels of education of physicians and advanced practice nurses. You have heard that if we pass the Majority Report it will lead to duplication of medical services and increase costs. The truth of the matter is that advanced practice nurses do not have the same training as physicians. They are not physicians and they do not profess to be.

Rather they are educated and trained to practice within the scope of an advanced practice nursing specialty area. That scope involves preventative and primary health care. The truth is that most preventative and primary health care does not require the extensive specialization that characterizes physician education today. Just as with other health care providers, advanced practice nurses do not operate in isolation. They consult with or refer to other health care providers when required by the clients needs. This is required by their standards of practice. It is also specifically required by the Majority Report itself. The same type of public safeguards exist for advanced practice nurses as for physicians who exceed their scope of practice or commit malpractice.

Advanced practice nurses carry malpractice liability insurance just as physicians do. Advanced practice nurses are highly motivated and pay scrupulous attention to the care they deliver and to ensure that they confine their practice to their scope of education and training. Advanced practice nurses recognize that the best health care delivery system is fully integrated with many different types of practitioners performing different services in a number of settings. Advanced practice nurses do not wish to remove themselves from this integrated setting. They simply wish to perform those advanced nursing functions for which they have been trained, without having to seek permission from members of another profession. In some instances advanced practice nurses may work without the supervision of a physician diagnosing and treating patients within their scope of practice. In other cases they will work under the same type of formal agreement with physicians that currently exist. Some advanced practice nurses prefer this type of arrangement. The advanced practice nurses I have encountered practice their specialties with great professionalism.

My daughter was delivered by a certified nurse midwife in Portland. All four of my children have received primary care from pediatric nurse practitioners and they have received excellent care. Regarding duplication of medical services, there should be no more duplication when an advanced practice nurse refers a patient to a physician then presently exists when the general practice physician refers a patient to a specialist. Specialists routinely reorder tests. Of all the bills that came before my committee this session, I consider this to be the most important. That is because I believe this bill has the potential to dramatically improve the lives of the citizens of this state, especially the lives of our children.

Recently a woman who moved to Bangor from Canada earlier this year testified before our committee on another bill, she testified that when she arrived in Bangor she had a tough time finding a pediatrician who would take her children as new patients. She testified that only one pediatrician in the Bangor area was accepting new patients and those slots were restricted to private pay patients. Pediatricians limit the size of medicaid patient loads that they accept. I understand the reasoning for that. Medicaid reimbursement rates are low. I believe strongly that this bill can help that situation. I firmly believe that passage of the bill will increase the number of advanced practice nurses in this state. I certainly know that it will allow advanced nurses to practice within the full scope of their

education and ability. With more advanced practice nurses providing preventative and primary health care, aggregate health care costs will be reduced. Statistics show that preventative care is the most cost efficient type of health care.

I think we all know that. That is what advanced practice nurses do. They provide preventative and primary health care. Men and women of the House, advanced practice nurses understand the limits of their practice and they also understand that they are but one player in the health care continuum. They value their relationship with physicians just as they do with other health care colleagues. Their intent is not to displace anyone in the health care system. They simply want to practice as fully vested partners in that system. I strongly advocate giving them that opportunity. I thank you very much for listening and I strongly request your support of the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative POVICH: Mr. Speaker, Men and Women of the House: I cannot imagine any more emotional subject than this advanced nurse practitioners bill, L.D. 948, which is, An Act to Provide Greater Access to Health Care.

On a personal level, I have the utmost respect for the work these professionals perform. One of my closest political volunteers is a nurse in advanced practice. The Maine Nurses Association endorsed my campaign and helped me in many ways. It would be natural for me to have no difficulty voting for the original bill unamended, but I did have tremendous difficulty supporting the concept of free unregulated independent practice for nurses in advanced practice and for any professional. A physician whose very clients depend upon their practices in matters of life and death. The most beneficial and cost effective means of delivering care is for nurses and physicians to work together, not in isolation. I believe that nurse practitioners should not practice without some prearranged relationship with a physician, not a micro-managed relationship, but a general relationship with a physician. This relationship is essential, I believe, to the continuing quality health care interests of Maine patients.

Yes, it is a profound belief that in these matters we can never be too certain. We must provide for redundancy. We are not right 100 percent of the time, but in this case it is too serious if we are wrong. We must look to our peers and to our mentors to guide us even when we are absolutely positively certain of a diagnosis. Who is to benefit? The people who depend upon this care. Let's hang the turf battles and the squabbles and hang the foolish pride, we are dealing with people who are dealing with life and death matters. I would urge you to vote against the motion so we can go to the amendment which in turn establishes an independent practice for advanced nurse practitioners, but with a physicians relationship. Thank you very much.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: For about 20 years I have worked at an educational institution, one of the major components of which, is the education of nurses. I will not pretend at all to be an expert on this issue, I do think I have some understanding and empathy of the

issues involved. Having said that, this is not a perfect bill, but I see this as a major step forward. It is something that has been needed for a long time. I urge you to support the pending motion.

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

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: My health care provider is a nurse practitioner. I consulted with her last year when this bill was before us and I consulted with her again this year. She feels that there needs to be some collaboration between physicians and nurse practitioners. I urge you to defeat the present motion so you can accept the Minority "Ought to Pass". Thank you.

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

Representative BIRNEY: Thank you Mr. Speaker, Distinguished members of this House: If you accept the Majority Report, we will be among only six other states that permit independent practice of nurse practitioners. It has been mentioned that they have a master's degree level education. I need to remind you that only about 40 percent of them have an associate RN with continued education program, which is based over nine months, but it is approximately 360 hours total at 45 days.

Committee Report "B", which I support, also defines the Nurse Practice Law. It sets up a collaborative situation with a physician. I know we went round and round last year on collaboration and the liability. The collaboration clause in Report "B" takes care of the liability issue. It has been mentioned here that there are national standards. There are no national governmental standards for nursing. The standards that are talked about are the Nursing Association's standards. Also, midwives are mentioned in delivering babies. I have to tell you that Majority Report "A" does not exempt a midwife from collaboration. They must collaborate. I am telling you that all nurses collaborate.

One of the proponents of this bill who was a nurse, I happened to ask her, I said, I would think that any good nurse would want to have some sort of a relationship with a doctor so that if she was in trouble with a patient she could pick the phone up and call for help. The answer was any good nurse would, but we don't want to be told we have to do it. Folks, the law protects the people from those people that would go ahead and not call a doctor. There are people out there I'm sure in every profession that do not practice necessarily on the utmost professional manner. Basically Majority Report "A" does not take care of this issue. I ask you to defeat the pending motion so that we can go on to pass the Minority Report. Thank you.

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

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: I rise to urge you to vote against the Majority "Ought to Pass" on L.D. 948. This bill would allow the unsupervised practice of medicine by a nurse practitioner. Their training does not give them the skills needed to diagnose and treat medical problems. There are side effects and there are complications. It is hard enough for a physician with at least 11 years of training to do a good job, so you cannot expect quality care from

those who have had much less training than that in a different curriculum agenda.

They will tell you that advanced nurse practitioners will fill the need in rural areas where doctors do not wish to live. There is no evidence that nurse practitioners will be in unserved areas in any greater amount than physicians. My one concern is about the concept of collaboration. Collaboration, in my opinion, implies a mutual cooperation agreement between physicians and nurse practitioners. In the current legal climate in medicine, my concern is that if there were to be a pour out after a nurse contacted a physician by telephone, if the physician might to be implicated in the process having never seen the patient. They have removed the word collaboration because they are afraid it would confuse the people in the legislature.

I am actually quite surprised that nurse practitioners would like to be fully responsible for some of the decision making. Nurse practitioners have been trying to practice nursing, not medicine. Why should they be allowed to hang out a shingle to practice medicine with only seven years training when a doctor has to have 11 or 12? We are a citizen's legislature and it is our job to protect the citizens. I do not feel this bill would protect the citizens in proper medical care.

I don't feel that we are qualified to tell our medical profession how they should practice. I think the concept of advanced nurse practice is a good one, but this bill needs more work. I am not sure, I have served on this committee three terms, I think we have massaged this bill maybe three times or at least twice. I don't think it is perfect yet. I think it still needs some more work. I hope you will vote against the Majority Report and accept the Minority Report. Mr. Speaker, when the vote is taken I request the yeas and nays. Thank you.

Representative REED of Dexter requested a roll call on the motion to accept the Majority "Ought to Pass" as amended Report.

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

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

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: You have heard comments about the fact that we are looking to allow nurses to practice medicine that are not properly trained. If you recall within the past three weeks, we passed a bill in this House to reduce the years of training for primary care physicians by two years. To me that was a major, major change. It went through this House with virtually no debate. We are not, by any stretch of the imagination, saying that nurses practice medicine. They are not qualified to practice medicine. None of us on the Majority Report will tell you they are qualified to practice medicine. They are clearly not qualified to practice medicine.

When we hear testimony about this issue, in my mind, it is a smoke screen, because what we heard was we are going to be allowing people who are trained to

do nursing, we are going to allow them to practice medicine. The issue in my mind, ladies and gentlemen, is not medicine versus nursing. The issue is allowing highly trained professionals that are residents of this state to practice to the fullest extent of their education. You have heard that only 40 percent of the nurse practitioners have master's degrees, that figure is very close to accurate, but that is really irrelevant because those who don't have master's degrees, except in the case of the midwives, just simply won't qualify to do what we are asking them to be allowed to do. If they don't have the master's degree education, they will not be allowed to practice. It is very simple.

As far as the nurse midwives are concerned, there is a national standard that requires a relationship with a higher level professionals. I think for very obvious reasons. You have also heard that it is unsafe for the public to have nurses practicing that don't have a collaborative relationship. Interestingly enough, as we heard testimony the same people that supported collaboration, were the same people who opposed it last year, the very same people. Collaboration last year was used as an excuse, in my mind, that liability would be an issue by our definition of collaboration. The present definition of collaboration effectively makes no change in the nurses ability to practice.

You have also heard there is an issue of rural access and to some degree that is true, but I also think that it will provide access to some of the inner cities. It is urban access as well as rural access. We are simply asking that these nurses who are highly trained professionals be allowed to practice to the full extent of their education. We heard a long debate over scope of practice. I remind you, ladies and gentlemen, that nurses in advanced practice are the only health professionals that even attempt to define their scope of practice in the law. No other professional has that limited definition in the law, only this one that we have tried to do.

Scope of practice is certainly the issue that I think we ought to be concentrating on, because scope of practice is related to an individual's ability to provide service. An individual's ability to provide service is related to their education. Please don't be misled when you hear that some of these people are going to be practicing with associates degrees, that simply is not true. They will not qualify as the bill is presently written. You may also hear and I would like to diffuse the issue before it comes onto the floor. I haven't heard it yet this morning.

You may also hear that there is no point in doing this because we don't have a third party payer system in this state so therefore, it won't allow nurses to be paid, so therefore it is a waste of time to do it. We can do it right now. There is nothing in the law that prohibits insurance companies or medicaid from paying these people. What is happening right now is that these practices are taking place. The physician is being paid by the insurance and medicaid at the higher rate and gives the nurse a little piece of it and keeps the rest and never sees the patient, unless the nurse determines that this individual needs more help than their training can provide. That is the very simple of what we are going to do and it is a matter of trust.

I heard in the testimony basically that you can't trust nurses because they will go beyond their

ability. I don't think there is a day that we don't pick up a newspaper and hear about a doctor or an intern in a hospital that made a mistake. They went to far. They did something wrong. These are extremely unfortunate cases. They also think that we have a health care system in this country second to none and we need more access for those who can't afford it. This, in my mind, will provide it. This will provide increased access to preventive medicine, which we all know is the least expensive way to go.

I have heard all kinds of figures on percentages and somewhere between 60 to 80 percent of the procedures will take place in a primary care office can be handled by a nurse practitioner that is trained at the level we are talking about. That doesn't mean, necessarily, that this nurse practitioner can handle 60 to 80 percent of the diseases. There is a clear distinction there. What I am saying is, you get more people that who come to a doctor's office with a cold, than you do people come to the doctor's office with cancer, thank God. I apologize for using that analogy, but I think it is an important distinction that we understand that nearly 80 percent of the items or ailments that an individual comes to a primary care office with can be handled by an advanced practice trained nurse.

We make no claim that they can practice medicine. They can't practice medicine. I would ask you, ladies and gentlemen, to support this effort. We are not letting people go out and willy nilly and practice whatever they want on whomever they want. We are trying to increase access. We are trying to keep costs under control. To me this is health care reform in its finest. We don't force anybody to do anything. A nurse that wants to can continue to practice the way she wants. We are not forcing anybody in the public, like in an HMO, to go to an individual that can go to this nurse practitioner or if they want to go to a doctor, they still have that option. We are not looking at a huge cost to the state or any other government agency.

As a matter of fact, we hope and I would be a fool to stand here and tell, but we hope and we have a lot of faith that this will actually drive costs down. I think all of you know around the State of Maine we have a real serious issue with primary care access. This we hope and we believe will reduce some of that concern. I urge you to support the pending motion and I thank you in advance for your support.

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

Representative LUMBRA: Mr. Speaker, Ladies and Gentlemen of the House: It has been said that this Majority Report does not allow nurse practitioners to practice medicine. Well, ladies and gentlemen, when you are independently diagnosing and independently treating with prescriptions medical diseases, I call that practicing medicine.

We have been also told that this could perhaps keep costs under control. Well, ladies and gentlemen, we have already heard that there is no mandated insurance reimbursement for this so obviously we will probably see that down the road if this bill should pass. Let me just tell you when a nurse practitioner sees somebody and she feels it is beyond her scope of practice and yet all ties have been cut to the physician, what do you think is going to happen. It won't be a simple phone call. It will be either a referral to a physician, which is an additional cost or it will be an emergency room

visit, which is a significant additional cost. I can't see that this would save money for the patient in any way. I can see that it has a great potential of increasing cost. The other thing is we have heard that we need to provide greater access in rural areas. The way we can decide if this would do that is to go and they say hindsight is twenty-twenty, lets look and see what has happened in other states.

In Oregon in 1979, they gave nurse practitioners independent prescription authority. The reason they did that was to provide greater access for health care in rural parts of there state. In 1991, they did a study to see if that had been accomplished and guess what, it had not. The nurse practitioners were largely located in the urban centers. This bill does not address that and it doesn't give direction to push nurse practitioners into the rural areas. Ladies and gentlemen, I think that this is practicing medicine. It is not insurance reimbursable. It does, I think, increase the potential for cost. I would urge you to vote against this pending motion. Thank you.

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

Representative BIRNEY: Distinguished Members of the House: It was mentioned earlier that only master's degree level nurses can practice. I think you need to read the bill. I find that no where in the Report "A". I will read to you the education requirements from Committee Amendment "A", the Majority Report. Education, has successfully completed a formal education program that is acceptable to the board in an advanced nursing specialty area. Right now acceptance to the board is a two-year associate's degree, RN was the second level, as I mentioned which is covered over a nine month period.

Also, it was mentioned about the bill that we just passed to reduce physicians education by two years. Folks, we didn't reduce the level of education. This program was for exceptionally brilliant people. They have to complete all of their studies and do an extra year of residency while they are doing it. It takes a year off from the medical school, but they still have to complete all those studies which would be inclusive in that year and it adds another year of residency. We are not reducing the criteria of education. We are saying if you can do it in lesser time, then go ahead. Another thing that I wanted to mention is the collaboration issue. Last year there was a major liability issue around collaboration. This year the way Committee Amendment "B" is written takes care of that.

In closing, I just want to quote to you from the well respected Edmund S. Muskie Institute of Public Affairs. "Some states allow nurse practitioners to work independently of or in collaboration with physicians, rather than under physicians supervision, as is the case in Maine. Although independent practice is permitted in states, the reality in Maine and elsewhere is that more and more primary care providers are joining in networks, group practices and integrated systems. Therefore, a collaborative model in which physicians and nurse practitioners work together and, in which, is arguably more effective and more cost effective than independent practice and is the most practical role." Folks, that is from the Muskie Institute whom we all respect. Thank you.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: I hope this doesn't go on too much longer. I felt there was a couple of things I wanted to comment on about what has been said. First of all, you have heard that there is going to be, again I address this, duplication of a test of exams and there will be additional costs if we go with the Majority Report. I just don't see how you can think that. As you know when you go to a physician now, if your physician is an internist, general practitioner, or family practitioner, refers you to a specialist, whether it be a urologist or whatever, often test are conducted again, that is routine. Sometimes they are not. If they are diagnostic tests and they are clear, they are not conducted, but the physical exams are conducted again.

If a nurse practitioner refers a patient to a physician and they will, when it is not within their scope of practice to treat the patient, they will refer. I don't see how you can say that there is going to be any additional costs or any more cost involved than when a general practice physician refers a patient to a specialist. The other issue is about reimbursement. Medicaid reimburses in full for services provided by certain type of advanced nurse practitioners. Medicare is available as federally mandated. There may be a reason you want to vote against this Majority Report, but I hope it is not because you feel that the nurse practitioners are not going to be reimbursed either through Medicaid or Medicare or third party payer. They will be, but even if they wouldn't, they still want to provide treatment.

The most important thing I think we need to think about today are the children of this state. That is why I am excited about this bill. I am from the City of Portland. We have a lot of children who live in poverty and qualify for Medicaid, but they don't have a pediatrician. They get medical care when it gets acute. Even some Medicaid kids who do have a pediatrician when there is an event that flairs up after hours, they will refer them to the hospital, because the Medicaid reimbursement rates are not high enough to warrant the physician coming in and treating the child. If I thought this was going to reduce the quality of health care, I would be the last one to vote for it. You will have to make up your mind about that.

I would just ask you to think about those children in this state who have no health care today. What most nurse practitioners provide is preventative health care and primary health care. They do well baby checks. They do routine physicals. They check for ear infections and sore throats. These types of things go unheeded often, because you can't access a physician. You end up in the emergency room when the condition becomes so severe that the child can't stand it. If you want to reduce health care costs, I submit this is the way.

I know I am becoming a little passionate about this, but it is because I believe in it so strongly. I don't mean to go overboard. As I said before, of all the bills and we had 90 bills before our committee, this is the one that I think is the most important and will do the most for the citizens of this state. I strongly urge you to support it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Libby.

Representative LIBBY: Mr. Speaker, Men and Women of the House: The direction in management of care cannot be abrogated to non-physicians no matter how willing they are to assume their responsibilities. While non-physicians health professionals are able to perform more important patient care functions, they do not have the diagnostic and treatment education, training and experience as physicians.

The most productive and cost effective way to deliver quality health care lies in physicians and nurses in advanced practice working together to meet patients health needs with physician's directions on medical acts. It has been stated in the past there are only six states permitting independent practice by nurse practitioners. The physician's direction should be maintained to ensure patients receive the safest and best quality care available. Physicians have at least 11 years of training in patient diagnostic and therapeutic. In contrast, APN's have a minimum of two years of the associate degree nurse, plus a a nine month certificate program and a maximum of six years in training after high school for a nurse with a master's degree. It has been stated in the past that only 40 percent of these people have a master's degree.

You have heard about the scope of practice. The scope of practice can vary as wide as it is long. It will differ from one APN to another. When they hang their shingles out how in heaven's name are the patients suppose to know what range that particular APN happens to have and their ability or scope of practice. The argument that APNs will serve rural areas is questionable. There is no evidence that nurses in advanced practice will practice in rural areas. In fact, studies show that APNs are no more likely to study in rural areas than physicians. The question is would APNs leave their established home in the area they are familiar with. Would their children who are used to their school and their friends move to rural areas? Their husbands are probably located close to their work so there would be no incentive for them to move.

FAME, which you all know about, already has a program to entice doctors to rural areas. They offer from 50 to 100 percent reimbursement for the doctor's schooling. Even with that the doctors are not standing in line to take advantage of this program. The basic problem with this bill is what happens if the APN encounter a problem through wrong diagnostic or treatment when they do not have collaboration with a doctor to fall back on. Patients deserve physicians direction in the art of science of medicine, diagnostic, treatment and prescriptions. I strongly urge you to vote against the Majority "Ought to Pass" Report. Thank you.

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

Representative SAXL: Mr. Speaker, Men and Women of the House: I stand and urge you to defeat the Majority "Ought to Pass" motion and move onto accept the Minority Report. My good friend from Portland, Representative Rowe, stood up and passionately told you why he cared so deeply about this piece of legislation and I accept his basic premise that we want to provide health care services to the poor, inferred, children and the elderly. I accept my good Representative Cameron's hope that this is going to create a more affordability on health care.

I ask this body, does affordability of health care mean that our poorest citizens don't deserve the quality of health care as our wealthier citizens? Does it mean that currently the practice of nurse practitioners can't reach out to the poorest communities and to the people in the inner city? I represent Portland west end and there are a lot of poor people in my community and there are two health clinics, one at the Riche School and one at the Maine Medical Center. Both of these health clinics are staffed largely by nurse practitioners and physician's assistants. I think that is great, but I tell you what, although these people merely practice on their own, they do work in coordination and collaboration with a primary care physicians. It is working in Portland's west end. People are getting the health care they need from these clinics and I think it is important to recognize that nurse practitioners working in collaboration with primary care physicians means good health care for all of Maine's citizens.

I also want to touch on the point that Representative Rowe mentioned about the issue of duplication of services. He makes an excellent point. Currently there are some duplications of services in health care, but as we move to health care reform, we don't want to encourage that trend. We don't want to encourage duplication of services. If I were a practicing physician and I give something they call a curb side referral, when a nurse practitioner came up and said, "look, I am not sure if this is what I think it is." "Does this sound right?" "Is this within my scope of practice?" "Is this the thing?" I say under this bill when the liability is shifted 100 percent on my shoulders, I can't give you that kind of diagnosis without fully redoing all the work. That is the only way I can insulate myself and the only way I can be professionally responsible.

Yes, this is going to increase or maintain the duplication of services. I think that is a problem. Expanding the role of any health care provider is a serious step. Today we are being asked to extend nurse practitioners the right to practice medicine without physician involvement. The practice of medicine is the right to practice medicine without physician involvement. The practice of medicine is the right to diagnose medicine without physician involvement. The practice of medicine is the right to diagnose and treat patients.

This proposal would allow nurse practitioners to ensue that independently of physician's supervision or collaboration. This is a major change in Maine policy and one that we should reject. I think the poor people in Maine need access to health care should have the access to the same quality of health care that you and I receive today. Please join me in defeating the Majority "Ought to Pass" Report motion and go on to accept the Minority Report.

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

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

The SPEAKER: The Representative may pose his question.

Representative STEDMAN: I had a question for each side of the debate. For the proponents of Committee Amendment "A", what is the objections to collaboration? For the proponents of Committee Amendment "B", does this bill as amended improve the

health care service system in Maine or does it more or less maintain the status quo?

The SPEAKER: The Representative from Hartland, Representative Stedman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Paris, Representative Birney.

Representative BIRNEY: Thank you Mr. Speaker. I can respond on Committee Amendment "B". It actually improves the services in Maine, because right now the law reads that they have to be supervised by a physician. This collaboration clause that is in Committee Amendment "B" says it removes the concept of supervision and delegation and replaces it with a relationship that recognizes the contribution of each participant in the medical team. Basically a nurse practitioner will be able to go out into rural areas and go into clinics. It is just that she has to have a physician on the other end of the phone if she needs him. They can agree on a relationship rather than a supervision type relationship. It does improve the standards.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: Could I have the question on the Committee Amendment "A" part restated please?

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

Representative STEDMAN: Thank you Mr. Speaker. The question was what are the objections to collaboration?

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: In response to the question, the objection is the definition and the way collaboration is defined this year it effectively makes no change in the existing situation. We keep hearing this thing about liability. I feel very strongly that it is just a smoke screen.

Nurses in advanced practice carry the same level of insurance coverage as do doctors. The exact same coverage. We all know if a suit comes about they are going to go for the deepest pocket, regardless of the insurance coverage. The fact of the matter is, nurses in advanced practice are covered for the same amount of money as doctors. What is interesting about it is, they pay a lot less for their coverage, because their record of suits is much lower. They get sued far fewer times. We can all put a spin on what that means, that is the way it is. Everyone of us, regardless on which side you are on, can put a spin on it to support their thought.

Our concern about collaboration is the way it is defined. I emphasize that collaboration was there in the last bill and the same people opposed it with collaboration in it. We heard the very same testimony that can't have it with collaboration. Now we heard the testimony that we need collaboration. I want you to bear in mind folks, you have heard the word independent thrown around here very loosely this morning. The word independent doesn't appear in this bill anywhere. It does not talk about independent practice. No health professional practices in a vacuum. There will always be relationships, as well there should be.

The question is the type of relationship. Supervisory under the thumb type of relationship does nobody any good. You have heard there are only six other states that have this. Interestingly enough you didn't hear anything about any problems. Nobody could site problems. I want to emphasize that I said that I hope this improves rural access, but I believe that it will probably improve in a city urban access more. The comment about a lower quality care, I think it is very unfortunate that we make that kind of a comment about our professional nurses in this state. They are highly trained and highly professional. I don't think any of you have ever been in a health care setting where you didn't get quality, professional and courteous care from nurses. I have no intention of having a lower quality level care for the poor people of this state, none whatsoever.

These people are qualified to give high quality care to the level that they are trained. Are they trained doctors? Absolutely not. Are they trained to do some of the things that doctors do? Absolutely. All we are asking is that we be allowed to do that without having that under the thumb relationship. There will always be another relationship with another health professional. There has to be and there always will be. Nobody wants to practice other than that. I ask you again. I don't want to belabor this issue. We have a lot of other work and I hope the debate doesn't go on a long time more. I would very much appreciate your support on the "Ought to Pass" motion. Thank you.

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

Representative DiPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I hope you have all looked at your calendar today. We have 28 items on it. If we are going to discuss them at this great length which we have today, I think you are all entitled to your speech making, but I think maybe we shouldn't keep repeating ourselves. I would like to move forward if at all possible. We are going to be here until 9 or 10 o'clock this evening and it is a long hard day. If somebody has already stated it, lets just hold it back. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Driscoll.

Representative DRISCOLL: Mr. Speaker, Men and Women of the House: I have been blessed with three RNs in my family, my son and my two daughter-in-laws. I have discussed this bill with them. They seem to agree that if you want to become a doctor, then you go to medical school. If you want to become a nurse, you go to nursing school. If you want to get a quick way around going to medical school, then you become a nurse practitioner and take a few courses and then you become a pretty near a doctor. You can work on your own. They feel that if you want to become a doctor, go to medical school. If you want to become a nurse, go to nursing school.

There is a couple of more points I would like to make while I am standing up here. One is that this will tend to reduce quality care. Two is it will tend to undercut wages of doctors who have spent years and years of training. It is going to take them forever to pay back the money that they owe on their training. This is going to create an easy way around going to medical school. It will create

bureaucracy. I ask you to please vote against the "Ought to Pass" motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Libby.

Representative LIBBY: Mr. Speaker, Men and Women of the House: Nurses in advanced practice are trained to work with physicians. They are not trained to work independently. They are also not trained to provide a full range of primary care for patients. They are trained to provide limited diagnosis and treatment within the framework of a physicians relationship. To go back and address the amount that the nurses pay for the same coverage. They at present pay a smaller amount than the doctors. That is understandable, but you just wait until they are practicing independently and you see what the insurance rate comes to. Thank you.

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

Representative TRUE: Thank you Mr. Speaker, Colleagues of the House: I apologize to my good friend from South Portland for speaking, however, it is the first time. I hope he will forgive me. The question I have and I would like to perhaps have someone answer for me, especially those that are against the Majority "Ought to Pass". We have talked about everything that I can think of except the physician's assistant, the PAs. It is my understanding and I think there are a lot of them in the state who have been given a lot of latitude about having to do with health care. Can anyone tell me or compare the physician's assistant with those particular nurses who will obtain a certified nurse practitioner's certification and requiring them to have a master's degree to go on to serve the people? If someone could answer that for me, I would appreciate it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Rowe. 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 ROWE: Thank you Mr. Speaker. To respond to the good Representative's question, I honestly don't know the difference in the educational requirements, but I do know that physician's assistants, as I understand, do not have to have master's degrees. Physician's assistants are true physician extenders, they work with the physician and that is what they are trained to do.

I do disagree with the fact it has been stressed that advanced nurse practitioners are not trained to work autonomously. They certainly have the skills and training to do that. I also beg the indulgence of the House. I respect the Representative from South Portland's comment, but to follow up on the other question about collaboration. The reason I don't think this in the "B" report is appropriate it is not only ambiguous, but it requires documentation of collaboration must be available so written documentation and query whether that involves every single physician that an advanced nurse practitioner deals with.

The second issue is, it does not as the good Representative from Rumford said, change the current standard of advance nurse practitioners practicing only under the delegated authority of a licensed physician. I also wanted to point out one thing that may surprise some folks here that in the rules of the

Board of Medicine, physicians can delegate authority to perform tasks that are not routinely within the physician's scope of practice or readily performed by the supervising physician, as long as they have adequate training oversight skills and have referral arrangements in place. You have advanced nurse practitioners working with physicians today performing practices and procedures that physicians themselves do not routinely provide and perhaps is not within their scope of practice. I think this is important to consider.

I take great exception to what the good Representative from Portland said about this providing a different standard of care for the poor. I don't see that at all. If I thought that were the case, I certainly wouldn't get up. I have used nurse practitioners all my life. I intend to continue. I know there is a real problem in the City of Portland. I know the health clinics are not meeting the need. I know that first hand. I would very much appreciate your support. Thank you.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: Briefly, my children and I have both been treated by advanced practice nurses in the pediatric field as well as in the OB GYN field. It is not always, but often, a nurse steps out of the room to discuss the case with the doctor, just to double check. There is going to be collaboration whether formal or informal between the nurses and the doctor. What is not going to happen is there is going to be no fiduciary relationship between that nurse and doctor until there is a suit.

You have heard that malpractice insurance is equal for both and that is true, but two times the malpractice insurance is great. The doctor who collaborates unofficially or officially with the nurse is on the hook in a suit as well as the nurse. Whether they are found to have any participation in contributing to the suit will be determined, but the doctor must still defend himself and he may well be found to have contributed to the cause of the suit. There is nothing in writing that says he is doing business with the nurse. We are not talking about a supervisory position. We are talking about one professional calling another professional for an opinion. That could be done over the phone. That information could be faxed. There is no record in the doctor's files that he even treated the person, but they have been asked to give an opinion. They are stuck in a law suit and you have two deep pockets.

This state does not recognize joint and separate liability. A doctor on the hook for 10 percent of the negligence can still pay 100 percent of his limits into a claim. I just wanted you to be aware of that. Thank you.

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

ROLL CALL NO. 231

YEA - Adams, Ahearne, Barth, Benedikt, Bigl, Bouffard, Brennan, Buck, Bunker, Cameron, Campbell, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, Dexter, DiPietro, Etnier, Farnum, Fisher, Fitzpatrick, Gates, Gerry, Gieringer, Gould, Green, Guerrette, Hartnett, Hatch, Heesch, Johnson, Joseph, Kerr, Kil Kelly, Kneeland, Labrecque, Layton, Lemaire, Lemke, Libby JD; Lovett, Madore, Marshall,

Martin, Mayo, McAlevey, McElroy, Morrison, Murphy, Nadeau, Nass, O'Gara, O'Neal, Peavey, Pendleton, Perkins, Pinkham, Poirier, Rice, Richardson, Ricker, Rosebush, Rotondi, Rowe, Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Tripp, True, Truman, Tuttle, Tyler, Vollenik, Watson, Wheeler, Whitcomb, The Speaker.

NAY - Aikman, Ault, Bailey, Berry, Birney, Carleton, Chartrand, Chick, Clukey, Cross, Damren, Donnelly, Driscoll, Dunn, Gamache, Gooley, Greenlaw, Heino, Hichborn, Jones, K.; Joy, Joyce, Joyner, LaFountain, Lane, Lemont, Libby JL; Lindahl, Look, Lumbra, Luther, Marvin, Meres, Mitchell EH; Mitchell JE; Nickerson, Paul, Plowman, Pouliot, Povich, Reed, G.; Reed, W.; Robichaud, Samson, Savage, Saxl, J.; Saxl, M.; Simoneau, Spear, Stedman, Stone, Strout, Taylor, Tufts, Underwood, Vigue, Waterhouse, Winglass, Winn, Winsor.

ABSENT - Dore, Jacques, Jones, S.; Keane, Kontos, Ott, Poulin, Yackobitz.

Yes, 83; No, 60; Absent, 8; Excused, 0.

83 having voted in the affirmative and 60 voted in the negative, with 8 being absent, the Majority "Ought to Pass" Report was accepted.

Representative BIRNEY of Paris moved to table one day pending reading of the Bill.

Representative ROWE of Portland requested a division on the motion to table.

A vote of the House was taken. 38 voted in favor of the same and 93 against, subsequently, the motion to table was not accepted.

The Bill was read once. Committee Amendment "A" (S-279) was read by the Clerk.

Representative CARLETON of Wells moved to table until later today pending adoption of Committee Amendment "A" (S-279).

Representative CAMERON of Rumford requested a roll call on the motion to table.

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 the motion to table until later in today's session. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 232

YEA - Ahearne, Aikman, Ault, Bailey, Barth, Berry, Birney, Buck, Bunker, Campbell, Carleton, Chase, Clukey, Cross, Daggett, Damren, Dexter, Donnelly, Dore, Driscoll, Dunn, Etnier, Gamache, Gerry, Gooley, Greenlaw, Guerrette, Hartnett, Hatch, Heino, Hichborn, Joseph, Joy, Joyce, Joyner, Lane, Layton, Lemaire, Lemont, Libby JD; Libby JL; Lindahl, Look, Lumbra, Luther, Madore, Marshall, Martin, Marvin, McElroy, Meres, Mitchell EH; Mitchell JE; Nass, Nickerson, O'Gara, Paul, Peavey, Perkins, Pinkham, Plowman, Poirier, Povich, Reed, G.; Reed, W.; Robichaud, Rotondi, Savage, Saxl, J.; Saxl, M.; Simoneau, Spear, Stedman, Stone, Strout, Taylor, Treat, True, Truman, Tufts, Underwood, Waterhouse, Whitcomb, Winglass, Winn, Winsor.

NAY - Adams, Benedikt, Bigl, Bouffard, Brennan, Cameron, Chartrand, Chick, Chizmar, Clark, Cloutier,

Davidson, Desmond, DiPietro, Farnum, Fisher, Fitzpatrick, Gates, Gieringer, Gould, Green, Heesch, Johnson, Jones, K.; Kerr, Kilkelly, Kneeland, Labrecque, LaFountain, Lemke, Lovett, Mayo, McAlevey, Morrison, Murphy, Nadeau, O'Neal, Pendleton, Pouliot, Rice, Richardson, Ricker, Rosebush, Rowe, Samson, Shiah, Sirois, Stevens, Thompson, Townsend, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler.

ABSENT - Jacques, Jones, S.; Keane, Kontos, Ott, Poulin, Yackobitz, The Speaker.

Yes, 86; No, 57; Absent, 8; Excused, 0.

86 having voted in the affirmative and 57 voted in the negative, with 8 being absent, the Bill was tabled pending adoption of Committee Amendment "A" (S-279) and later today assigned.

An Act to Repeal the Laws Regarding Consumer Information Pamphlets (H.P. 307) (L.D. 411) (C. "A" H-88)

TABLED - June 23, 1995 (Till Later Today) by Representative HICHBORN of Lagrange.

PENDING - Passage to be Enacted.

Subsequently, passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

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

TABLED - June 23, 1995 (Till Later Today) by Representative HICHBORN of Lagrange.

PENDING - Passage to be Enacted.

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

By unanimous consent, H.P. 1035, L.D. 1454 having been acted upon was ordered sent forthwith.

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-515) - Minority (4) "Ought Not to Pass" - Committee on Judiciary on Bill "An Act to Allow the Department of Human Services to Take Protective Custody of Certain Newborn Children" (H.P. 394) (L.D. 529)

TABLED - June 20, 1995 (Till Later Today) by Representative TREAT of Gardiner.

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

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I urge that you accept the pending motion, which as stated is, in fact, the minority of the committee. The three of us in the House that voted against passage of this bill feel very strongly about it and would like to lay it before you so you can have both sides of the issue in front of you.

What this bill does, whether in its original or amended form, is it establishes a presumption that certain children should be taken away from their parents under certain circumstances, even though there is no showing of intent to harm those children. It changes the burden of proof from DHS having to prove that there was harm to the child, to

the parent having to prove that it is right for that parent to keep the child. The bill assumes that once parents have committed that act toward one child, whether it is their own or another, as a state we should be moving in and removing the next child, even if it is 10 years later. Right now DHS must only meet a very minimal standard of proof, which is a preponderance of evidence.

The Department of Human Services did not want this added authority and opposed the bill in the hearing. In their testimony DHS stated that they have all the authority they need already to remove children from their parents and they did not see any need to pass this bill. According to DHS, if the child is in immediate harm that child can be taken into interim care by a law enforcement officer for up to six hours. If the child is in circumstances of jeopardy, the department can prepare a petition for a child protection order and contact a judge for preliminary protection order. We asked the question whether those protection orders are not granted in cases where DHS thought they ought to be. We were told that, in fact, they are granted, especially with newborns, which is the original intent of the bill. Particularly in those cases, they have plenty of authority. They just need to ask for it. This bill really goes too far.

There has been a lot of concern on this floor over a number of bills that have been brought in where people are concerned about DHS's authority as being excessive already. This bill would expand their authority in ways that even DHS doesn't want. I urge that you reject the bill and vote with the pending motion, which is the "Ought Not to Pass" Report.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: This bill was brought to us through the Maine Foster Parents Association and the people who work with the children that DHS removed from the home. The people work to make sure these children are in a safe environment. The bill as it was brought to us fought to greatly increase the number of newborns taken. Many of these children or in some instances, statements are made to foster parents, that is, "Ok, you keep that one, I will have another one." That was very broad when we brought it to the committee and there were a lot of ramifications that were discussed.

The bill through committee deliberations and in the Majority Report fought to limit that. We do want you to know that newborns are at much greater risk, obviously they can't tell anybody and they are very rarely seen by anyone who would recognize that they have been beaten. Sherry Cotton's young newborn comes to mind. What we are looking for is to be able to remove a child at the hospital in the maternity ward before the child goes home and is damaged severely by a parent who has either acted in a manner toward the child that is heinous or abhorrent to society. These words are defined as hatefully or shockingly evil or being so repugnant to stir up antagonism. Tanya Keegas has a lot of child bearing years left. How many of you would give her a newborn to go home with? To me that is abhorrent and heinous behavior toward a child.

The other criteria was that the parent would have been convicted on a Class A or Class B crime against a child. Those are the two criteria that DHS would be asked to come in and take a newborn and then

assess whether the parent is stable enough to be the primary caretaker for a newborn child. The damage to newborns is so easy. The ramifications are so huge. The cost to the child is incredible. A child with shaken baby syndrome, have you ever seen a child with shaken baby syndrome, that is paralyzed, blind and mentally retarded in 24 hours to 48 hours after a violent shaking. There are certain parents that need to be keyed into and their children removed at birth and then returned once the DHS has learned if the parent is stable. This is not going to affect very many cases. This is going to affect persons who have already offended society to the point of horror at the way they have previously treated a child.

I ask you to turn down the Minority "Ought Not to Pass" and go with the Majority "Ought to Pass". Thank you.

The SPEAKER: The Chair recognizes the Representative from Farmingdale, Representative Watson.

Representative WATSON: Mr. Speaker, Ladies and Gentlemen of the House: I rise today as one of the three that were on the Minority Report. I ask you today to please vote yes on "Ought Not to Pass" on this L.D. I would like to let you know that the department believes that taking a child into care over the objections of the parent is very serious and should not be done on the decisions of the department alone, as this L.D. would suggest. If the child is in need of immediate care, the child could be taken into interim care. If the child is in circumstances of jeopardy, the department can prepare a petition for a child protection order and contact a judge. Of course, to bring a petition because a threat of serious harm there must be evidence of what has occurred in the family with this particular parent in the past, which creates the threat of serious harm to the newborn. This process is constitutionally sufficient.

The proposed legislation offers no protection and permits drastic administrative action without timely review. DHS representatives testified that there have been cases where the newborn child never left the hospital with the parent. DHS can achieve that result now with a preliminary protection order. I ask you again, please, vote yes on the Minority "Ought Not to Pass" Report. Thank you.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House: I, too, rise in support of accepting the Minority "Ought Not to Pass" Report for two reasons. The first has already been stated, that the Department of Human Services currently has the ability to act in cases where there would be jeopardy to the child. In that respect, the legislation is not necessary.

Second, I think the legislation establishes a very dangerous precedent. It shifts the presumption from the state to the parent. A parent in this situation would have to prove that they are a fit parent. That burden should always rest with the state, not with the individual parent. As with everything else in our legal system, everybody realizes that the state has to prove its case, not the individual. In this particular case, if we are going to say that parents have to prove that they are fit parents and that the state has the presumption of guilt, I think that is a very dangerous precedent to set.

Lastly, I worked at the Maine Youth Center for a year. I worked with adolescents in the Substance Abuse Treatment Unit. Several of the youths I worked with had been in state custody from a very, very early age. All I can say is in almost all of these cases the family situation is extraordinarily complex and extraordinarily difficult. I don't believe that legislation such as this will get to the root of the issues that we would like to in terms of addressing family problems with the symptoms that we see. I urge you to accept the Minority Report.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: I won't kid you. This is a very difficult problem that you have before you. What we are talking about here is the safety and perhaps the life of the most innocent and those who are most unable to defend themselves.

During the course of the public hearings, a sort of analogy popped into my mind and I shared it with the committee. Can you imagine if there was someone who had twice been convicted of arson and one dark evening a policeman patrolling an abandoned waterfront area of dilapidated warehouses sees the individual walking through the district with a can of gasoline and a box of matches. What would your assumption be? In that case, due process would certainly enter in. The individual might be asked what they are doing there and perhaps encouraged to go home.

I thought well maybe that is the route we ought to take with the case of newborn children whose parents have already had children taken from them and placed in protective custody or committed such heinous acts that defy description. I realized that I needed to vote and I needed to speak as you do today for the newborns. The remedies that have been outlined at DHS currently are of absolutely no use if the baby has been shaken or worse, found dead. You have to remember that these are people who have committed horrible, horrible crimes. Some social workers have said that often people who have had children taken from them will say, that is ok, I will make another one. I think this is a judgment call for you today. If there is any error to be made in that judgment call, I am going to ask you to err on the side of this newborn child.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: Just two additional points. One, if this case does go before a judge, there is a hearing and the person who has committed one or two abhorrent and heinous acts or murder or the equivalent, class A and B crimes will have to be evaluated before they take a newborn home. There is a court hearing.

We only had one young child, probably 17, show up to testify. He had brain damage. He was one of five children taken to DHS. He had brain damage. He was taken at three months and somebody or something had chewed toes off this little boy. He had not only been abused by his parents, but he had been abused by his brothers and sisters. He got to go home and wasn't taken until three months later. He has been in long-term foster care ever since. Can you imagine what we have spent on that young man? He asked us if we would protect other newborns and not let them have to end up in the situation that he is in. We are

talking about people who have done incredibly horrible acts. This is not someone who has had a child removed for simple neglect or getting spanked at K-Mart.

Yes, there is a presumption put that the parent is a danger, the danger has already proven that they can either murder, torture or starve another child. How many of you want to send that newborn home from the maternity ward? Put yourself in the place of a nurse who has to run the nursery. My sister did that. She cried handing newborns over to mothers to take home. Yes, there is a follow-up, somebody comes to visit two or three days later. That is great, I urge you to defeat this motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Fitzpatrick.

Representative FITZPATRICK: Mr. Speaker, Ladies and Gentlemen of the House: I just want to speak briefly to this issue. It is very clear in my experience with the Human Resources Committee in dealing with these issues on a day-to-day basis over the past three years as a member of that committee that this bill is, quite frankly, not needed. DHS already has the powers described in this bill and secondly the reality is that DHS takes custody of children and infants all the time. Under the powers that they currently have, they take them from nurseries and hospitals. I would suggest to you that this bill, frankly, is not needed. Thank you.

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

Representative LaFOUNTAIN: Mr. Speaker, Men and Women of the House: I urge you to support the Minority "Ought to Pass" Report. If you are at all concerned that the Department of Human Services has too much power and is not accountable for its actions, then this bill in its original form or amended should certainly raise your attention level. I urge you to support the Minority Report for two reasons.

First, as the good Representative from Gardiner mentioned, this is unnecessary legislation. The Department of Human Services, through its representatives, testified to the Judiciary Committee and indicated that no legislation is needed in this area. When I specifically asked a question of the department representative whether, or not they have been prevented from taking a newborn child through the current standards of law? They indicated they have never been denied access and have never been denied a preliminary protection order via the current mechanism.

The second reason I urge you to support the Minority Report and defeat the bill is due to the standard of proof. Currently the department need only show by a preponderance of the evidence that the child is in jeopardy. It is not a very difficult standard to meet. To my knowledge, Title 22, which is the Child Protection Act, currently contains no rebuttal presumptions. If passed, this bill would do just that. It would create a rebuttal presumption in Title 22. As we are aware, this body when previously addressing the issue of a rebuttal of presumption in a high speed chase, denied passage of that legislation. For these reasons, I would encourage you to support the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Mr. Speaker, Men and Women of the House: I urge you to defeat the Minority "Ought Not to Pass" and join us in the Majority "Ought to Pass" Report on this issue.

I think you have to, again, put yourself in the committee hearing. What we heard was, at the time, was despite the departments indication of disapproval with it, we were essentially listening to a number of foster parents who had the opinion that this is not the way things are working. In fact, there were a number of cases out there where young babies deserve to have been protected. I would again urge you to concentrate on the experience of these people and despite the fact we have a complex relationship between parents and newborns, what we are after here are those people who are dangerous to newborns. There are very few cases that meet this criteria, but it appears from the testimony we heard, that despite the department's interest, desire or lack of desire, reality indicates that they have not been able to adequately protect newborns in situations that we are talking about. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative LANE: Thank you Mr. Speaker. In the lines 14 to 16 in the Statement of Fact in the amendment, it says although the main purpose of this amendment is to allow the Department of Human Services to take protective custody of newborns before any harm occurs there is no reason why the criteria cannot be applied to protect children of all ages. Am I reading that, indeed, this criteria can be used to protect children of all ages and another question. What happens to the newborn when they are taken by DHS? Are they immediately put up for adoption? Thank you.

The SPEAKER: The Representative from Enfield, Representative Lane has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Biddeford, Representative LaFountain.

Representative LaFOUNTAIN: Thank you Mr. Speaker. My understanding from reading of the amendment is that this bill applies not only to newborn children, but anyone under the age of 18. Secondly when a child is put into DHS custody through a preliminary protection order, a parent is entitled to numerous hearings and a child, in my understanding of the law, would not be placed for adoption until at least 18 months in custody of the state.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: Whenever DHS takes protective custody of a child they immediately begin the program of reunifying that child with the parent, that is their ultimate goal. DHS will abandon a plan of reunification only if certain very strict criteria are met. That would be if a parent is willing to consent to the termination of those rights. The parent is unwilling or unable to rehabilitate or reunify with the child. The parent has abandoned the child. The parent has acted toward the child in a manner which is heinous or abhorrent to society. The victim of any of the following crimes with a child for whom the parent was responsible, murder, felony

murder, manslaughter, aiding or soliciting suicide, aggravated assault, rape, gross sexual misconduct, sexual abuse of minors, incest, kidnapping, promotion of prostitution or a comparable crime in another jurisdiction. That is when DHS would abandon its reunification effort.

I would say to you that if it is good enough to abandon reunification efforts, it is good enough to step in and err on the side of a young newborn. As far as rebuttal defense and high speed chases, I suspect that a newborn child really doesn't care about those things. Mr. Speaker, when the vote is taken, I request a roll call.

Representative HARTNETT of Freeport requested a roll call on the motion to accept the Minority "Ought Not to Pass" Report.

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

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

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McALEVEY.

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

The SPEAKER: The Representative may pose his question.

Representative McALEVEY: Thank you Mr. Speaker. What if one parent is convicted of one of these other crimes and the other parent isn't? Are we going to deny custody to the second parent if the spouse is a convicted felon in one of these categories?

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

Representative HARTNETT: Thank you Mr. Speaker. One thing I want to make very clear and I know I have confused some people lately. I am not an attorney, I make maps. My understanding reading the statute, which I have before me, is the Department would abandon the reunification of either parent. It would have to be the parent guilty of these crimes.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I have been struggling as this debate has taken place to understand the issue. It certainly goes right to your heart. However, as I read the bill, I understand that it is permissive only. It allows the Department of Human Services to step in. It seems to me if we have horror stories taking place, they are taking place because the Department of Human Services is not doing a good job now. Merely allowing them to take custody will not solve that problem. It seems to me that we would be better off taking steps to fix what is wrong at the Department of Human Services, rather than give them another option which they may or may not pursue. Thank you.

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

ROLL CALL NO. 233

YEA - Adams, Ahearne, Bailey, Barth, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, Dexter, DiPietro, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gooley, Gould, Green, Greenlaw, Hatch, Heeschen, Hichborn, Johnson, Joseph, Kerr, Kontos, Labrecque, LaFountain, Lemaire, Lemke, Libby JL; Marshall, Martin, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Paul, Pendleton, Pouliot, Povich, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Strout, Thompson, Townsend, Treat, Tripp, Truman, Tuttle, Tyler, Volenik, Watson, Wheeler, Winglass.

NAY - Aikman, Ault, Bigl, Birney, Buck, Campbell, Carleton, Chick, Clukey, Cross, Damren, Donnelly, Dunn, Gerry, Gieringer, Guerrette, Hartnett, Heino, Jones, K.; Joy, Joyce, Joyner, Kilkelly, Kneeland, Lane, Layton, Lemont, Libby JD; Lindahl, Look, Lovett, Lumbra, Luther, Madore, Marvin, Mayo, McALEVEY, McElroy, Meres, Nass, Nickerson, Ott, Peavey, Perkins, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Richardson, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Taylor, True, Tufts, Underwood, Vigue, Waterhouse, Whitcomb, Winn, Winsor.

ABSENT - Dore, Jacques, Jones, S.; Keane, Poulin, Yackobitz, The Speaker.

Yes, 78; No, 66; Absent, 7; Excused, 0.

78 having voted in the affirmative, and 66 voted in the negative, with 7 being absent, the Minority "Ought Not to Pass" Report was accepted and sent up for concurrence.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-608) on Resolve, to Reduce the Economic Impacts of the Clean Air Act on Maine's Citizens and Businesses (EMERGENCY) (H.P. 459) (L.D. 625)

Signed:

Senators:

Representatives:

LORD of York
RUHLIN of Penobscot
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-609) on same Resolve.

Signed:

Senator:

Was read.

HATHAWAY of York

On motion of Representative GOULD of Greenville, the Majority "Ought to Pass" as amended Report was accepted.

The Resolve was read once. Committee Amendment "A" (H-608) was read by the Clerk and adopted.

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 as amended by Committee Amendment "A" (H-608) and sent up for concurrence.

Divided Report

Majority Report of the Committee on Inland Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-607) on Bill "An Act to Change the Atlantic Sea Run Salmon Commission" (H.P. 922) (L.D. 1298)

Signed:

Senators: HALL of Piscataquis
KIEFFER of Aroostook
ROTONDI of Madison
JACQUES of Waterville
CLARK of Millinocket
KEANE of Old Town
ROSEBUSH of East Millinocket
TUFTS of Stockton Springs
GREENLAW of Standish
CHICK of Lebanon
PERKINS of Penobscot
UNDERWOOD of Oxford

Representatives:

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

Signed:

Senator: MICHAUD of Penobscot
Was read.

On motion of Representative ROTONDI of Madison, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-607) was read by the Clerk.

Representative CLARK of Millinocket presented House Amendment "A" (H-615) to Committee Amendment "A" (H-607) which was read by the Clerk.

On motion of Representative UNDERWOOD of Oxford, tabled pending adoption of House Amendment "A" (H-615) to Committee Amendment "A" (H-607) 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-610) on Bill "An Act to Address a Shortfall in the Maine Ground Water Oil Clean-up Fund and Change the Financial Assistance Program for Owners of Underground Oil Storage Facilities" (EMERGENCY) (H.P. 1119) (L.D. 1563) (Governor's Bill)

Signed:

Senators: LORD of York
RUHLIN of Penobscot
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

Representatives:

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-611) on same Bill.

Signed:

Senator: HATHAWAY of York
Was read.

On motion of Representative GOULD of Greenville, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-610) 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-610) and sent up for concurrence.

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

House Divided Report - Committee on Inland Fisheries and Wildlife - (12) Members "Ought to Pass" as amended by Committee Amendment "A" (H-607) - (1) Member "Ought Not to Pass" on Bill "An Act to Change the Atlantic Sea Run Salmon Commission" (H.P. 922) (L.D. 1298) which was tabled by Representative UNDERWOOD of Oxford, pending adoption of House Amendment "A" (H-615) to Committee Amendment "A" (H-607).

Subsequently, House Amendment "A" (H-615) to Committee Amendment "A" (H-607) was adopted.

Committee Amendment "A" (H-607) as amended by House Amendment "A" (H-615) thereto was adopted.

The Bill was assigned for second reading later in today's session.

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

Resolve, Requiring a Study of How the State Should Regulate Naturopaths (EMERGENCY) (H.P. 1087) (L.D. 1532) (H. "A" 613 to C. "A" H-508) which was tabled by Representative ROWE of Portland pending passage to be engrossed.

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

Representative ROWE: Mr. Speaker, Colleagues of the House: L.D. 1532 as amended is a unanimous committee report. It would set up a task force to study and recommend to the legislature how the state should regulate naturopaths. Naturopaths or naturopathy is not is not the issue. The committee felt that they were unqualified folks out there calling themselves naturopaths and they may be not only unqualified, they may be incompetent. We felt that there ought to be some sort of regulation. This may be a certification, registration, licensing or whatever, we are not sure. We did not have enough information and so what this bill proposes to do is set up a group to study the issue and report back to the second session. There is no general fund impact. I appreciate your support. Thank you.

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

A roll call having previously been ordered was taken now.

ROLL CALL NO. 234

YEA - Adams, Aikman, Benedikt, Berry, Bigl, Birney, Bouffard, Brennan, Bunker, Cameron, Campbell, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Daggett, Davidson, Desmond, Dexter, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Greenlaw, Hartnett, Hatch, Heeschen, Heino, Hichborn, Johnson, Jones, K.; Joseph, Joyner, Kerr, Kil Kelly, Kneeland, Kontos, Labrecque, LaFountain, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Look, Luther, Martin, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Plowman, Poirier, Pouliot, Povich, Rice, Richardson, Ricker, Rotondi, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stevens, Stone, Strout, Thompson, Townsend, Treat, Tripp, Truman, Tufts, Tuttle, Tyler, Volenik, Watson, Wheeler, Winn, Winsor, The Speaker.

NAY - Ahearne, Ault, Bailey, Barth, Buck, Cross, Damren, DiPietro, Donnelly, Dunn, Gieringer, Gooley, Guerrette, Joy, Joyce, Lane, Layton, Lovett, Lumbr, Madore, Marshall, Marvin, Nass, Pinkham, Reed, W.; Robichaud, Rosebush, Stedman, Taylor, True, Underwood, Vigue, Waterhouse, Winglass.

ABSENT - Jacques, Jones, S.; Keane, Lemaire, Mayo, McAlevy, Poulin, Reed, G.; Whitcomb, Yackobitz.

Yes, 107; No, 34; Absent, 10; Excused, 0.

107 having voted in the affirmative and 34 voted in the negative, with 10 being absent, the Resolve was passed to be engrossed as amended and sent up for concurrence.

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

On motion of Representative MITCHELL of Vassalboro, the House recessed until 1:45 p.m.

(After Recess)

The House was called to order by the Speaker.

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, June 23, 1995, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

Bill "An Act to Amend the Occupational Disease Law" (H.P. 957) (L.D. 1346)
TABLED - June 21, 1995 by Representative GOULD of Greenville.

PENDING - Motion of same Representative to reconsider indefinite postponement of Bill and all accompanying papers.

At this point the Speaker appointed Representative MITCHELL of Vassalboro to serve as Speaker Pro Tem.

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

Subsequently, the House voted to reconsider its action whereby the Bill and all accompanying papers were indefinitely postponed.

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

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

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 pending question before the House is to Indefinitely Postpone the Bill and all Accompanying Papers. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 235

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

NAY - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heeschen, Johnson, Jones, K.; Kil Kelly, Kontos, LaFountain, Lemke, Luther, Martin, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Pouliot, Povich, Richardson, Ricker, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Tripp, Truman, Tuttle, Tyler, Volenik, Watson, Wheeler, Winn.

ABSENT - Jacques, Jones, S.; Joseph, Keane, Kerr, Lemaire, Lemont, Poulin, Rosebush, Yackobitz, The Speaker.

Yes, 74; No, 66; Absent, 11; Excused, 0.

74 having voted in the affirmative and 60 voted in the negative, with 11 being absent, the Bill and all accompanying papers were indefinitely postponed and sent up for concurrence.

Bill "An Act Concerning Reasonable Standards and Procedures for Contracting Services by the State" (H.P. 332) (L.D. 453)

TABLED - June 21, 1995 by Representative DAGGETT of Augusta.

PENDING - Motion of same Representative to reconsider whereby the Minority "Ought Not to Pass" Report of the Committee on State and Local Government was read and accepted.

Subsequently, the House voted to Reconsider.

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

Representative DAGGETT: Thank you Madame Speaker, Members of the House: The last time we talked about this bill there were some questions raised in regard to the administration's support of this. I have with me a letter which I would like to read to you.

Dear Representative Daggett: To confirm our telephone discussion of Monday, June 26, 1995, I was involved in working with you and the Governor's Office on the development of the amended version of L.D. 453. It appears to me sufficient latitude exists to allow contracting for services if a quantifiable advantage cost or otherwise is documented. I do not foresee difficulty in administering this process. Signed, Dick Thompson, Director of the Bureau of the Division of Purchases from the Bureau of General Services.

I just want to repeat that I believe this bill does allow sufficient latitude for contracting. It simply requires that the information regarding contracting and the cost associated with it be spelled out. I hope that you will vote against the "Ought Not to Pass" so that we can accept the "Ought to Pass" motion. Thank you.

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

Representative CARLETON: Thank you Madame Speaker. I won't be too long. I would just like to repeat the discussion that we had the last time this bill came around, which was that anybody who objects to anything that is proposed to be done can force a hearing through the Administrative Procedure Act, which could be long and expensive. I don't know how anybody in the administration could say what that letter apparently says. I certainly do not agree with it. I hope you will accept the "Ought Not to Pass." Thank you.

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

Representative STONE: Thank you Madame Speaker, Ladies and Gentlemen of the House: The letter that the good Representative just read from the purchasing department certainly is a politically correct letter. I spoke to him on the phone and got somewhat of a little different version, but I appreciated his comments. The chores of procedures that are outlined in this particular bill will discourage the state and private contractors from looking at future possibilities to privatize. We all know the story of Cinderella. The family says, of course, you can go to the ball after you finish your chores. They buried Cinderella with so many chores that she was doomed, even though they said yes, you can go to the ball. We have no good fairy to save us from the many chores this legislation creates. The notification procedure alone is 208 words, which is greater than twice the number of words that I used in this speech. Thank you.

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

Representative DAGGETT of Augusta requested a roll call on the motion to accept the Minority "Ought Not to Pass" Report.

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

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

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

ROLL CALL NO. 236

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

NAY - Adams, Ahearne, Bailey, Benedikt, Berry, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Green, Hatch, Heesch, Johnson, Jones, K.; Kilkelly, Kontos, LaFountain, Lemke, Luther, Martin, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Pouliot, Povich, Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Strout, Thompson, Townsend, Treat, Tripp, Truman, Tuttle, Tyler, Volenik, Watson.

ABSENT - Jacques, Jones, S.; Joseph, Keane, Kerr, Lemaire, Poulin, Yackobitz, The Speaker.

Yes, 77; No, 65; Absent, 9; Excused, 0.

77 having voted in the affirmative and 65 voted in the negative, with 9 being absent, the Minority "Ought Not to Pass" Report was accepted and sent up for concurrence.

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

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

(After Recess)

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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 Friday, June 23, 1995, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

JOINT RESOLUTION MEMORIALIZING THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY TO REQUIRE DEVELOPMENT OF A GASOLINE THAT REDUCES OZONE WITHOUT ENDANGERING HEALTH (H.P. 1128)

TABLED - June 14, 1995 by Representative MARSHALL of Eliot.

PENDING - Adoption.

Subsequently, the Joint Resolution (H.P. 1128) was adopted and sent up for concurrence.

JOINT RESOLUTION MEMORIALIZING THE GOVERNOR OF THE STATE TO PETITION THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY TO REMOVE FROM THE OZONE TRANSPORT REGION AND REDESIGNATE TO ATTAINMENT OR RURAL TRANSPORT ALL AREAS OF THE STATE THAT QUALIFY (H.P. 1132)

TABLED - June 20, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Adoption.

Subsequently, the Joint Resolution was adopted.

On motion of Representative BENEDIKT of Brunswick the House reconsidered its action whereby the Joint Resolution (H.P. 1132) was adopted.

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

Representative BENEDIKT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to speak in opposition to this resolution. I believe that every state in the Northeast claims its pollution comes from away, so why are we still breathing these pollutants? This resolution, if implemented, will do nothing to improve air quality or to bring us into compliance with the Federal Clean Air Act. What this does is pit the north of the state against the south and weaken our chance of developing a responsible state policy. After all, if the majority of this House feels it is not their problem, why should they help in finding a solution? This is a divisive solution to the Resolution and I urge you not to pass it.

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

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: What this Resolution does is ask the Governor to take any areas that are in attainment or that can be redesignated to rural transport to take and do this. This does not remove us, at this time, from the Ozone Transport Commission. It just takes any area that is in attainment or can be reclassified and it asks the Governor to do so. I urge you to support this.

The Chair ordered a division on adoption of the Joint Resolution.

A vote of the House was taken. 99 voted in favor of the same and 2 against, the Joint Resolution was adopted and sent up for concurrence.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the following item which was Tabled and Today Assigned:

Bill "An Act Regarding Timothy Harkins and Maine State Retirement System Benefits" (H.P. 1140) (L.D. 1583)

(Committee on Labor suggested)

TABLED - June 23, 1995 by Representative HATCH of Skowhegan.

PENDING - Reference.

Subsequently, the Bill was referred to the Committee on Labor, ordered printed and sent up for concurrence. Ordered sent forthwith.

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

ORDERS

On motion of Representative TUTTLE of Sanford, the following Joint Order (H.P. 1141)

ORDERED, the Senate concurring, that Bill, "An Act to Modify the Licensure Act for Substance Abuse Counselors," H.P. 1008, L.D. 1419, and all its accompanying papers, be recalled from the Engrossing Department to the House.

Was read and passed and sent up for concurrence.

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Change the Atlantic Sea Run Salmon Commission" (H.P. 922) (L.D. 1298) (H. "A" H-615 to C. "A" H-607)

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

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

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, June 23, 1995, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

SENATE REPORT - "Ought to Pass" as amended by Committee Amendment "A" (S-213) - Committee on State and Local Government on Bill "An Act to Encourage the Training and Hiring of Resident Workers" (S.P. 432) (L.D. 1200)

TABLED - June 16, 1995 by Representative WATERHOUSE of Bridgton.

PENDING - Motion of Representative JOYCE of Biddeford to indefinitely postpone Bill and all accompanying papers. (Roll Call Ordered).

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I hope you will oppose the Indefinite Postponement of this bill. If you recall, we discussed this earlier and there has been some misrepresentation on the floor regarding this bill. It has been suggested that it is a bill about allowing preferences. This bill is not about preferences. It is about putting pressure on the state to eliminate preferential bidding, so that Maine businesses can compete on a level playing field

in all states. Just as we currently do in every other New England state and they are able to compete here.

For example, New York grants a 3 percent preference for the state purchase of food products when the food is grown in the State of New York. This means that a Maine business is at a 3 percent disadvantage when competing against a New York business in the State of New York. This bill asks the question, is that right? Shouldn't we all be on a level playing field when bidding. It is a bill to discourage preferential bidding.

The last time the bill was discussed there was a question raised about the definition of an in-state bidder. I don't believe that has any direct bearing on this. In-state bidder is currently defined in the competitive bid process. The definition is as follows, an in-state bidder means a person or group of persons whose principal place of business or a branch of whose business is located in the state. This is simply not an issue regarding this bill. I hope that you will vote against the current motion so that we can go ahead and accept this bill and try to put pressure on those states that have preferential bidding.

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

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

The SPEAKER: The Representative may pose his question.

Representative JOYCE: Thank you. The first one is, how many people showed up to testify either for or against the original bill and the amended version, which is completely different from the original bill? The second question is, to what extent are we as the State of Maine being infiltrated by out-of-state contractors, whether in terms of dollars or number of contracts?

The SPEAKER: The Representative from Biddeford, Representative Joyce has posed a series of questions through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Biddeford, Representative Joyce.

Representative JOYCE: Mr. Speaker, Men and Women of the House: The state subs out a lot of different services and products. I just happen to have a representative sample, which is what the Maine Department of Transportation subs out, roads, bridges and miscellaneous work. In 1993, 73 million dollars have been subbed out, only 6 million went to an out-of-state contractor, that is 9 percent. In terms of number of contracts in 1994, there were 95 contracts and a matter of 121 million dollars and only five of those contracts went to out-of-state contractors.

My first point is that I don't believe that this is an overwhelming problem that we need to address. This bill seeks to regulate an aspect of the construction business and other businesses where there is no problem. I passed a letter out a few weeks ago and AGC is clearly against this kind of bill. There is a very similar bill brought before Labor and we had some very serious problems with it, so we carried it over. I think the theory behind this bill is that out-of-state contractors come up to Maine and they don't hire any labor force in Maine. They don't buy any fuel. They don't buy any supplies or rent any equipment, that is just not true. The fact is when an out-of-state contractor comes up

here, for example, to build a bridge or repave a road, typically they will send up one superintendent, a couple of foremen and a couple of key workers. They will come up here and rent major pieces of equipment. They will hire at least 10 or 12 laborers for a typical bridge project. They will buy fuel. They will house their employees here. They are pumping a lot of money into the Maine economy. I don't see this as an area where we really need to address. I don't see a problem. Thank you.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: In regard to the letter that was passed out a while ago regarding bidding preferences, I would just make note that this letter says that the Associated General Contractors continues to oppose legislation that will provide a bidding preference to Maine bidders. I note that there is no reference to an L.D. on this letter, so I wouldn't have a clue which bill they are actually referring to. However, if the Associated General Contractors are opposed to bidding preferences, then I am sure they would be supportive of this bill, because it is an effort to eliminate bidding preferences.

It is pretty straight forward and pretty clear in the amended version of this bill that it is there to prevent bidding preferences. I cannot see a thing in the bill that the Associated General Contractors would not be very pleased about and would like to see a level playing field, which is what the letter indicates. I can only read what is in front of me and I have read this letter and I have been involved in working on this bill. The amended version is very different from the bill itself and I would hope that people would speak to the amendment rather than the bill as originally submitted.

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

Representative JOYCE: Mr. Speaker, Men and Women of the House: The amended version of this bill is very clearly a preference bill because, granted, I understand that we are only going to apply this preference to contractors from states that do it to our contractors. That may be fair to you, but I see Maine as being up here and implementing any type of preference bill or reciprocity bill. It is just lowering ourselves to another state's standards. Just because another state does it, doesn't mean it is right. I believe the saying is, do unto others as you would have them to unto you. AGC is clearly against any kind of preference bill, because we believe in the free market. If you prequalify for the bid. If you get the low bid and you can get bonded, you will have financial stability. If you are the low bidder, you deserve to get that job regardless of residence. Thank you.

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

Representative SAXL: Mr. Speaker, Ladies and Gentlemen of the House: Somehow I think there is still confusion about this bill. If I understand correctly, ladies and gentlemen of the House, if there is a 3 percent preference in New York State, it means that when a bidder from New York State who wants to do a job here would have that 3 percent added to his bid, so that is the way in which we would respond to preference bidding. That is the nature of this bill and its intent is to eliminate preference bidding. I just thought that perhaps that

might help clarify it. Maybe it muddies the waters further, but I ask you to vote against the Indefinite Postponement.

Representative PAUL of Sanford requested the Clerk to read the Committee Report.

The Clerk read by Committee Report in its entirety.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Joyce. 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 JOYCE: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative JOYCE: Thank you Mr. Speaker. How many people and who did they represent testified either for or against the original bill and the amended version?

The SPEAKER: The Representative from Biddeford, Representative Joyce has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Norway, Representative Winsor.

Representative WINSOR: Mr. Speaker, Men and Women of the House: I am not responding to the question. This is kind of an interesting dilemma because apparently in the Labor Committee we had an almost identical bill from the same sponsor. It did apply itself to a different section of the statute. It just so happens on the day that we were working this bill, we were working some other bills that had to do with contractors and labor matters and we got kind of hung up on who was in residence and who were we going to apply the sanctions to. We looked at several different amendments and frankly, I thought that we came to the conclusion that the idea was deserving of more discussion and analysis, but we couldn't come to closure on what we thought were the problems with the bill. We made an application to carry that bill forward.

While I don't speak for the other members on the committee, I certainly speak for myself, in that I would like an opportunity to look at this idea in more depth. One of the reasons we requested to carry it forward is that we have a contractor that was a Connecticut corporation that has an operation in Maine and happens to be a contractor that is very well known in the State of Maine and was seriously concerned whether or not they would somehow have a sanction placed against them. We see that, for example, we passed a bill earlier this year on credit cards, MBNA is a Delaware corporation and has a huge presence in the State of Maine. I understand what the committee Chair said, but I would be much more comfortable in letting the status quo remain and spending a little more time looking at this issue to make sure that we didn't somehow create a law with an unintended consequence.

With that in mind, I would certainly request that we support the pending motion and as one member of the Labor Committee would pledge to bring that forward next time and hopefully deal with both parts of the statute. Thank you.

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

ROLL CALL NO. 237

YEA - Aikman, Ault, Bailey, Barth, Benedikt, Bigl, Birney, Buck, Campbell, Cross, Damren, Donnelly, Dunn, Farnum, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Hichborn, Joy, Joyce, Joyner, Kneeland, Labrecque, Layton, Libby JD; Libby JL; Look, Lovett, Lumbra, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, Murphy, Nass, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Simoneau, Spear, Stedman, Stone, Taylor, True, Tufts, Underwood, Waterhouse, Whitcomb, Winglass, Winsor.

NAY - Adams, Ahearne, Berry, Bouffard, Brennan, Bunker, Cameron, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heeschen, Johnson, Jones, K.; Joseph, Kerr, Kilkelly, Kontos, LaFountain, Lane, Lemaire, Lemke, Lemont, Lindahl, Luther, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, Nickerson, O'Gara, O'Neal, Paul, Pouliot, Povich, Richardson, Ricker, Robichaud, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Sirois, Strout, Thompson, Townsend, Treat, Tripp, Truman, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, Winn, The Speaker.

ABSENT - Dexter, Jacques, Jones, S.; Keane, Poulin, Rotondi, Stevens, Yackobitz.

Yes, 62; No, 81; Absent, 8; Excused, 0.

62 having voted in the affirmative and 81 voted in the negative, with 8 being absent, the motion to indefinitely postpone the Bill and all accompanying papers was not accepted.

Subsequently, the Report was accepted. The Bill was read once. Committee Amendment "A" (S-213) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

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

TABLED - June 15, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Passage to be Enacted.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: It seems like months ago, but it was actually only 10 days ago that we last discussed this bill. I think there was a little confusion at that time as to what this bill actually did and did not do. I might want to clarify a couple of matters for you.

One, this bill specifically addresses two establishments in the northern part of Maine and the distribution of the off-track betting facilities. Quite honestly the reasons the request came to us in the first place was that these guys were going to bite the dust. I am told that one of them already has. The long and short of this bill is that maybe accepting a little less money to the general fund is better than no money at all, that is the bill. If you are considering the fact that you don't like FTBs, this is not the vehicle. If you are considering the fact that this is talking fairs and live harness racing, that is another bill. It is not this issue.

All this bill does is simply tries to assist a business within the State of Maine and trying to put

them on an even footing, so that the State of Maine, tax wise, is in a better position. Mr. Speaker, if there are any further comments or questions you may want to address them to Representative Donnelly from Presque Isle, who knows this bill fairly well. Thank you.

This being an emergency measure a two-thirds vote of all members elected to the House necessary. 115 voted in favor of the same and 17 against, accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

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

-In Senate, this Bill, having been returned by the Governor, 25 voted in favor and 10 against, and accordingly it was the vote of the Senate that the Bill become a law, notwithstanding the objections of the Governor, since two-thirds of the members of the Senate so voted.

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

Representative JOY: Thank you Mr. Speaker. May I ask the assistance of the Chair?

The SPEAKER: The Representative may proceed.

Representative JOY: Mr. Speaker, since we are not allowed to discuss actions of the Executive, my first question, how do we refer to this matter? Second, does it require a motion to sustain or override?

The SPEAKER: At this point, the Chair would respond to the Representative from Crystal, Representative Joy that since the Governor has vetoed it, it certainly is no longer in doubt as to the position of the Governor on this bill. You are free to discuss the merits or lack of merits of the position of the Governor and debate it at this point. The motion before the House will be "Shall this Bill become a law notwithstanding the objections of the Governor?" A roll call must be ordered by virtue of the Constitution.

Representative JOY: In other words, Mr. Speaker, the motion is to override.

The SPEAKER: A vote of yes will be for the bill to become law notwithstanding the objections of the Governor. A vote of no will be to sustain the veto.

Representative JOY: Thank you Mr. Speaker. May I proceed?

The SPEAKER: The Representative may proceed.

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: This bill narrowly was passed by the House by a 75 to 66 margin on the last roll call vote, which was roll call 97 on 5/17/95, which indicates that many people were in opposition to the bill.

I would like to review just briefly what this does. This provides payment above and beyond what is considered employment policy of the state for three individuals who were terminated and pays them for vacation time that they had accumulated, but goes beyond what is allowed to be paid under current employment policy. I hope that you have read the Governor's statement on this, because his statement is exactly correct. There are about 2,000 employees out there who have accumulated more than the amount of time that they are allowed to accumulate and many

of these people could possibly be in the same situation as these three individuals. There is no question that these three individuals did work very hard, but so do many of our state employees. They put in time above and beyond what is actually is demanded of them in the regular day to day operation of their job.

I think that we are setting a very dangerous precedence in our employment policies if we override this veto. The impact of this will be felt not only this year, but next year and the next year. We are setting a precedence, if this goes through and is passed into law. You are setting a precedence that no matter how many days you have accumulated in vacation, you now would have a past practice that would cover all future situations. If you say yes in this situation, how are you going to say no in future situations? I think, as I said before, it is a very dangerous policy to override what we have been working with for years. Also, two of these people are now reemployed by the state and there is an amendment on this bill that gives them continuing employment status. That is all and by itself is dangerous, too.

Any other employee who leaves the employment of the state and comes back has to work three years before they get continuing employment status and begin to accumulate those things that they lost because they left state employment. I urge you to follow my light and sustain the Governor's action in this. He is absolutely right in his position and when he is right we should be supporting him. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Mayo.

Representative MAYO: Mr. Speaker, Men and Women of the House: We have voted on this particular L.D. six times in the last two months. I would like to correct the Representative from Crystal. The last vote was on the 12th of this month and the vote was 84 to 54 not to Indefinitely Postpone this bill and all its accompanying papers.

This particular bill had a Majority Report from the Labor Committee after intense discussion. As has been noted before, these five individuals were asked to forego vacation time to complete their open cases. Due to an odd set of circumstances, they were not offered jobs by the new commission. However, the current Workers' Compensation Commission did vote eight to nothing to recommend this piece of legislation. Recently the Attorney General issued a verbal opinion that this bill did not, I will repeat, did not establish a precedence, since it applies to a particular situation for these five individuals and only these five individuals. This body has supported this piece of legislation, L.D. 599, six times by roll call vote and I would hope that this afternoon that you would continue your support. Thank you.

The SPEAKER: The Chair recognizes the Representative from Livermore, Representative Berry.

Representative BERRY: Mr. Speaker, Ladies and Gentlemen of the House: Yes, we have debated this item many times. We have heard the Executive in this chamber for the State of the State Address. He wanted to provide incentives for employees of the state for when they do something good for the state, they are rewarded or at least not discouraged. We have heard how the attitudes of state employees have been negative. They have been used up. There was a bill presented for that. I think that is wrong.

These people have gone the extra mile. They were promised this. If I quit my job in the private sector today, as of June 1 of this year, I earned two weeks vacation. That is part of my wages, I have earned that, that is owed to me. As far as the cost of the state that was mentioned, consider the cost to these individuals. If you had pay taken out of your check like this. I would ask you to reconsider this and to override the veto. Thank you.

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: I am not going to repeat everything that has already been said, because I think you have heard this bill so many times you must be sick of it. I think it is important at this point that we do override this veto. When you have a Workers' Comp Board that says eight to nothing that these people should be receiving their vacation time, I think that is important. I would like to mention a couple of points. The Representative from Crystal, Representative Joy, who I have high respect for, has mentioned past practice. These people are not in a Collective Bargaining Unit. Past practice doesn't count there. I would like to also mention that the 2,000 people that have been mentioned, whoever these 2,000 people are, if they belong to a Collective Bargaining Unit, within their Collective Bargaining Unit they have language that extends their vacation time, so they have not lost it. I urge your support in overriding this veto. Thank you Mr. Speaker.

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

Representative HATCH: Mr. Speaker, Men and Women of the House: I just rise today to ask for your support in overriding the veto. These particular individuals, as part of their service to the state, had a very hard job to do. In six months time they cleared up all the cases that we had backlogged on the workers' comp system from the old system to the new. They were not part of the bargaining unit. They were appointees of the Governor. They were given verbal conditions that they had to work under. They were told that they couldn't take vacation or sick time days. They had to get through this case load and they might possibly be rehired as permanent hearing officers. I want you to take that into consideration when you make your vote today. Yes, this bill has been very hard to work. It has been out for several opinions by the Attorney General and every time it has come back, there is no problem. I would like you to take that into consideration. Thank you.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for rising twice, but I feel that it is only fair to express my displeasure to the type of lobbying I got in the halls. In the hall I got lobbying from people who are lobbyists and also heard comments about some of the other legislators that if we could override this we would send the Governor a message. I wonder what kind of message we are sending him. I think as I indicated before when he is right, we should show him our support. I urge you to follow my light. Thank you.

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

Representative SAMSON: Mr. Speaker, Men and Women of the House: Quite a while ago I spoke in favor of passage of this bill. I think the state should live up to its agreements even though it may be oral agreements. I also said at the time that if you cannot trust the state with an oral agreement, then you should get it in writing, get a contract. I don't think it is a dangerous act for the state to live up to its agreements. I urge you to vote to override the veto.

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

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House: I do agree with the last speaker. I would suggest that if we are going to live up to our agreements then we should live up to the agreements with the hospital folks and eliminate that tax. We should live up to the citizens of Maine and eliminate the 1 cent on the sales tax as well. Thank you.

After reconsideration, the House proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

ROLL CALL NO. 238V

YEA - Adams, Ahearne, Ault, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Damren, Davidson, Desmond, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Guerrette, Hatch, Heeschen, Johnson, Jones, K.; Joseph, Kerr, Kilkelly, Kontos, Lemaire, Lemke, Lemont, Luther, Mayo, McAlevy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Paul, Pendleton, Reed, G.; Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Townsend, Treat, Tripp, Truman, Tuttle, Tyler, Volenik, Watson, Wheeler, Whitcomb, Winn, The Speaker.

NAY - Aikman, Barth, Birney, Buck, Cameron, Campbell, Carleton, Chick, Clukey, Cross, DiPietro, Donnelly, Dunn, Gieringer, Gooley, Greenlaw, Hartnett, Heino, Hichborn, Joy, Joyce, Joyner, Kneeland, Labrecque, LaFountain, Lane, Layton, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbr, Madore, Marshall, Marvin, McElroy, Nass, Nickerson, Ott, Peavey, Perkins, Pinkham, Plowman, Poirier, Povich, Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, Thompson, True, Tufts, Underwood, Vigue, Waterhouse, Winglass, Winsor.

ABSENT - Dexter, Dore, Jacques, Jones, S.; Keane, Martin, Poulin, Pouliot, Rotondi, Stevens, Yackobitz. Yes, 76; No, 64; Absent, 11; Excused, 0.

76 voted in favor of same and 64 against, and accordingly the veto was sustained.

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

On motion of Representative MITCHELL of Vassalboro, the House recessed until 7:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

CONSENT CALENDAR

First Day

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

(H.P. 808) (L.D. 1125) Bill "An Act to Implement the Recommendations Resulting from the Study Concerning Parental Rights and Responsibilities When Domestic Abuse is Involved" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-621)

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objections, the Bill was passed to be engrossed as amended and sent up for concurrence.

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Encourage the Training and Hiring of Resident Workers" (S.P. 432) (L.D. 1200) (C. "A" S-213)

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.

SENATE PAPERS

Divided Report

Majority Report of the Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-308) on Bill "An Act Authorizing a General Fund Bond Issue in the Amount of \$15,000,000 to Expand Maine's Interactive Television System to Maine High Schools" (S.P. 171) (L.D. 432)

Signed:

Senators:

BEGLEY of Lincoln
HANLEY of Oxford
SIMONEAU of Thomaston
DONNELLY of Presque Isle
AIKMAN of Poland
MORRISON of Bangor
POULIOT of Lewiston
KERR of Old Orchard Beach
OTT of York

Representatives:

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

Signed:

Senator:

Representatives:

BERUBE of Androscoggin
TOWNSEND of Portland
DIPIETRO of South Portland
JOSEPH of Waterville

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-308)

Was read.

On motion of Representative POULIOT of Oakland the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-308) 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" (S-308) in concurrence.

Non-Concurrent Matter

Bill "An Act to Expand Access to Medical Care by Encouraging Involvement of Retired Physicians, Podiatrists and Dentists" (H.P. 839) (L.D. 1170) which was passed to be engrossed as amended by Committee Amendment "A" (H-319) as amended by House Amendment "A" (H-493) thereto in the House on June 21, 1995.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-319) as amended by House Amendment "A" (H-493) and Senate Amendment "A" (S-319) thereto in non-concurrence.

Representative TREAT of Gardiner moved that the House Adhere.

Representative PLOWMAN of Hampden moved that the House Recede and Concur.

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

A vote of the House was taken. 71 voted in favor of the same and 38 against, subsequently, the motion to Recede and Concur did prevail.

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:

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, June 23, 1995, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

HOUSE DIVIDED REPORT - Majority (11) "Ought Not to Pass" - Minority (2) "Ought to Pass" as amended by Committee Amendment "A" (H-595) - Committee on Judiciary on Bill "An Act Making Comprehensive Changes to the Child and Family Services and Child Protection Act" (H.P. 948) (L.D. 1337)

TABLED - June 23, 1995 (Till Later Today) by Representative TREAT of Gardiner.

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

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

Representative TREAT: Thank you Mr. Speaker, Men and Women of the House: I urge you in the strongest possible terms to support the 11 to 2 "Ought Not to Pass" Report of the Majority of the Judiciary Committee.

This bill is based on the dangerous and long premise that we provide to many protections to abused children and to few protections to their likely abusers. It is legislation that will place children in further jeopardy. It would delay our ability to remove children from their homes when they have been abused and will cause lasting damage to children and their families in a number of ways.

As we have already heard earlier today, on the debate on another bill, there is a big problem with

child abuse in this state and around the country. Two thousand children are killed annually in this county and another 140,000 are seriously injured because of child abuse. This bill makes a state's child protection system more cumbersome more costly and less likely to accomplish its original aims.

A great deal of work when many people and varying constituencies resulted in the current Child and Family Services Child Protection Act. Previous legislatures labored conscientiously to balance the rights of parents and children. Already the legislature has severely restricted the ability of the state to remove children from parental custody. As we discussed earlier today that is an appropriate burden that is placed on the state. What this bill would do though is to change that balance of interest.

The bill was opposed by an incredibly large number of people. We had a two or three hour hearing on this. The opponents of it included child abuse protection workers, DHS Commissioner Kevin Concannon who personally testified against it. Doctors, child care workers, Attorney General's Office, guardian adlitem, cost of volunteers who represent children in court.

Even in its amended form L.D. 1337 is strongly opposed by Commissioner Concannon who again wrote another four page letter to the chairs of the committee in opposition to this bill. I won't read the four page letter, but I will say to you that some of the concerns of it are outlined in a handout that is being handed out to you right now which was put together by the Maine Children's Alliance. If I may I would just like to point to the two issues that the Children's Alliance has with the remaining outfits of this bill.

One section would require the assignment of an attorney for parents or custodians at the preliminary protection court order hearing. The result of this provision may seem responsible on its face would cause children to be unprotected until the attorney has been appointed. Further as the parents must be notified that a preliminary protective order is going to be filed. They will be fully aware that someone perhaps even the child himself has made a report of the abuse to the state. This knowledge plus the time delay waiting for the assignment and availability of an attorney at best gives ample time for the parents or custodians to leave the area and at worst has the potential to put the child's life in danger.

I just point out to one other change in the law that is particular of concern which is that it would open up to an open court hearing that the child abuse protection cases. I would just mention to you that we had another bill before the committee that would do that and that was the main purpose of the bill. We unanimously killed that bill, but it is showing up again in the particular piece of legislation.

Finally I would just point out that there is a fiscal note attached to this bill of nearly 1 million dollars, so I think that we can't afford it this time either. In summary the bill is not needed. We can't afford it and children will be harmed. Vote for the pending "Ought Not to Pass" motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House: This bill is essentially about our constitutionally protected liberty interests or our right to essentially raise our children without the states interference.

Therefore is particularly controversial I suppose in these times.

Let me try to tell you what the amended version of the bill does. This bill has been significantly amended. The remaining parts are as follows. It says basically now evaluations of the family must be done by a licensed mental health professionals. The family must be given the option of choosing a mental health professional perform the evaluation or an evaluation in addition to the one conducted on behalf of the state.

There is a great deal of controversy about the mental health professionals who are selected to deal with this problem. Those people who are primarily under contract with the state are often not acceptable to parents who are accused of abusing their children.

Number two, parents and custodians are entitled to legal council once a request for preliminary protection order or a child protection petition has been filed with the court and a hearing date has been set. Current law does not provide for legal representation for requests for preliminary protection orders.

Next, parents and custodians must be notified in writing that the investigations in the child protection proceedings may involve the interruption of their constitutionally protected right to family integrity. The parent or custodian has the right to legal representation.

Next, the report of the licensed mental health professional who has treated or evaluated the child on behalf of the state must be admitted as evidence if the parent or custodian has had an opportunity to chose a mental health professional. The mental health professional may present evidence adverse to the evidence provided by the mental health professional on behalf of the state.

Next, the person petitioning for a preliminary protection order must include a detailed description of the reasons for believing that serious harm to the child would result if the parents were to receive notice of the petition. A preliminary protection order cannot order a child into state custody for more than seven days without a hearing at which the parent may present evidence about abuse. If the court finds abuse, it must state in writing and detail its findings of fact and conclusions of law in support of a decision to continue state custody. Unlike the bill this amendment does not require the court to find clear and convincing evidence of abuse. The current standard of a preponderance of the evidence applies.

Finally, a preliminary hearing must be held within seven days of the issuance of the preliminary protection order or the request of the parents unless all parties expressly agree to a later date. It seems to me to be minimal rights that a parent should expect if they have, in fact, been accused of child abuse. It is a very traumatic experience to go through. It is one that we as a society do not handle well and it is one that needs a great deal of modification.

This is just the beginning. I urge that the you not support the Majority "Ought Not to Pass" and, in fact, join the Minority on this report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Farmingdale, Representative Watson.

Representative WATSON: Thank you Mr. Speaker, Men and Women of the House: I would like to respond to Representative Nass's comments and I just want everybody to know that I was on the Majority "Ought Not to Pass" Report. One of eleven people.

Many of the amendments in this bill will dramatically reduce the ability of the state to protect children from dangers. Heightened standard of evidence one not required by the Constitution increases the risk that children will remain in unsafe homes without the benefit of court mandated intervention. The limited resources currently allocated to child protective services will be decimated by redundant evaluation of abusers in children. Potentially by evaluators with little expertise in specific areas of assessment rather than offering a parent the opportunity to work with social workers to resolve problems.

This bill encourages families to shut out those offers and become isolated and insulated from sources of assistance. Mandated reporters are straight jacketed by unreasonable limitations and threatened by the risk of unlimited exposure with the result that fewer rather than more potentially lethal situations are identified. Those who are concerned enough to report the suspected abuse and neglect will have to assume that their testimony and the most private aspects of a child and families lives will be available for public perusal and dissection.

There can be little doubt that the impact of the amendments of this bill will be to substantially reduce the ability of the state to identify and protect children at risk from abuse and neglect. I urge you please to support the Majority "Ought Not to Pass". Thank you.

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

Representative LANE: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I am not sure we are speaking about the same bill, but let me go on to tell you a little bit about this amended version. We are in a crisis in this country and I believe that this particular situation and problem deserves a lot more debate in open air time than what we can currently give it due to the time of the session.

Please permit me to expound a little bit upon what this bill is about. First of all in response to the Maine Children's Alliance, this bill certainly does not endanger children. As a matter of fact, page six of the bill says that the notice of preliminary protection order is not required if the petitioner includes in the petition a sworn statement of the petitioners belief along with a detailed description of the reasons for holding that belief that the child would suffer serious harm during the time needed to notify the parents or custodians or prior notice to the parents or custodians would increase serious harm to the child or to the petitioner.

All of the standards, the heightened standards of evidence have been deleted in the amended version. We now are back to a preponderance of evidence, which is the lowest standard of evidence given for anything. In fact, if you were a shoplifter there would have to be a higher standard of evidence to convict you than there would be if you were accused of abusing your child.

I would like to point out that the Supreme Court has regarded the right of parents to direct the upbringing of their children as a fundamental right according to the 14th Amendment of our Constitution

which grants every citizen the right of due process of law and in some cases the rights of parents are being treated as a nonfundamental right that the problem of government interference into our lives and of false allegations of abuse is a growing one not only statewide but nationally.

Is evidence by current legislation before the U.S. House of Representatives in an act entitled "The Parental Rights and Responsibilities Act" which is signed by fifty-one cosponsors. Among other things this act states that government should not interfere in the family without compelling justification. Unfortunately today in this state DHS seems to have the power to override the provisions of the 14th Amendment by the way in which investigations of child abuse are conducted.

In fact, the bedrock of our judicial system presumption of innocence has been inverted into guilty until you prove your innocence, if indeed you are granted a forum to prove your innocence. We have all heard stories of nightmarish proportions of innocent families torn apart by false allegations of children being taken away to who knows where to stay with who knows who based on no more than rumors or hearsay evidence.

In fact, the lowest standard of evidence is required in these cases. Like I said, more standard of proof is required for shoplifting than is required in this character assassination. Sometimes these hearsay accusations are nothing more than part of a game plan in nasty divorce proceedings. Something must be done to protect the fundamental rights of persons accused of such horrific things.

This bill for what is left of it via the Minority Report simply gives back some of the due process of law granted by our Constitution and in no way inhibits the DHS from carrying out its duties. In no way does this bill place children in danger. We have heard evidence of the far reaching powers of DHS this morning on the floor. We have also heard recently of shattered lives resulted from hearsay evidence of abuse.

Please defeat the Majority "Ought Not to Pass" Report and go on to accept the Minority Report of "Ought to Pass as Amended". As far as the open hearing, there is provisions for that on page four of the bill. Upon a clearing convincing showing by the party that proceeding that are open to the public present a reasonable probability of causing permanent harm to the child whom the state seeks to protect or severe temporary harm that may have an enduring effect. The court in its discretion may close the proceedings and the record of those proceedings to the public.

The allegations against this amended version are totally false and I urge you to vote against the Majority "Ought Not to Pass" Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Libby

Representative LIBBY: Thank you Mr. Speaker, Men and Women of the House: The Representative from Enfield has done a great job at outlining this particular bill. I would like to point out that this bill was submitted by several members of this body and was defined earlier was signed and cosponsored by many, many members of this body because there is a problem. There have been case after case after case where it appears that the Department of Human Services exceeds their authority.

I think we have to recognize that and say maybe there is a problem here. If there is a problem here, the question is with all due respect to the eleven members that signed onto the Majority "Ought Not to Pass" but is that status quo? I think the answer is yes. If you vote for the Majority "Ought Not to Pass", you will vote for status quo. Absolutely no recommendations on and admitting that there is no problem.

I think there is a problem, maybe this isn't the bill and I know when the bill was submitted I thought I was going to be sponsor of this bill. So many people submitted it that the Representative from Enfield was the first, so she was the lead sponsor. Why did so many people go to the trouble to try to get this bill put into committee? Well because there are a lot of parents back home in your districts that have had problems with false accusations.

What do you do in a case like that. It shouldn't be a balancing act between the Department of Human Services which is doing a great job and trying to protect the children of Maine and the parents who are trying to do their job and protect the children of Maine. It should not be a balancing act. We should have both coming together and protecting the children of Maine. I think you all want that. So after deliberation a couple members of the committee decided to report out a bill that was much watered down as compared to the original bill.

What I am saying is that I wish that some of the other members of the committee and I know that with all due respect they did a great job. They did have a long hearing on this and a long work session. I was very pleased, but I would hope and wish that some of the members of that committee would come forward with at least a couple of recommendations that would help parents in these cases.

The Representative from Enfield, a couple of days ago, had a handout to you that I thought really told the story. I am going to read just a couple of things off that and then I will sit down.

Number one, this Minority Report allows a family accused by the Department of Human Services to choose their own suitably licensed mental health professional if a mental evaluation is required. My question is what is wrong with that? I think that is great. I think we need that. It gives the parent the right to legal council and be informed of that right. It also provides a court appointed attorney if the family is found indigent. Isn't that what we are trying to accomplish in so many other areas of policy?

It allows the accused family the right to information gathered by the Department of Human Services in the investigation. It sounds good to me. So these are all things and there are many more and I am not going to go over them all. These are all things that I think take important steps forward. You don't have to agree with all parts of this bill, but what is left of this bill is hard not to agree with. What I would request is that if we can't do something here and I hope we can that in the future we start taking some steps to protect those families who have been falsely accused. Thank you very much.

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

Representative BRENNAN: Thank you Mr. Speaker, Men and Women of the House: I agree with the two previous speakers Representative Libby and

Representative Lane. We do have a problem as it relates to child protective, but I can assure you that this bill is not the vehicle to address this problem.

It has already been discussed about, Representative Libby pointed out that one part of the bill allows somebody to select their mental health professional and in turn do an evaluation when there is an allegation of abuse. He said what is wrong with that. There is nothing wrong with that and there is nothing to prevent a parent or an adult that is accused of abuse to do that at this point. What this bill does though is that the state will pay for that evaluation when a second opinion is sought.

The other thing I want to mention in regards to that is that it appears somehow that mental health professional do an evaluation of this nature when they are asked by the Department of Human Services that somehow they are biased for the Department of Human Services. Again, any mental health professional that would do this type of evaluation that did show a bias would be in breach of their ethics and in breach of their responsibility to carry out a fair and open minded evaluation.

It is also mentioned in the bill about notification and why shouldn't a parent be notified of what was occurring. In fact, since 1983 the Department does notify a parent when there is an investigation that has to do with child protection. In the early 1990's, that was further clarified in legislation. There is information that is given to parents when a child protective investigation occurs. That notification issue already does happen.

The other point that I think is important to look at is that there appears a perception that somehow the department goes to court all the time on child protective cases. In fact, in only 10 percent of the cases that are open for investigation does the department go to court seeking some type of protective order or custody and only do they go to court when there is substantial evidence to indicate that the department should intervene in that families life or in that child's life.

Lastly, I just want to mention that I had a bill this session that created an oversight committee with the Department of Human Services on child protective issues. That went before the Department of Human Services and while the bill didn't come out before this body there was a compromise that was worked out with the Department of Human Services and other interested individuals where their will be a report submitted in September in regards to child protective issues that were raised in 1993 by an oversight committee on child protective issues. That will be available in September.

There is also a commitment with the Commissioner other interested parties to sit down and examine the child protective system in the state and to introduce legislation or other remedial actions that are necessary during the next legislative session. I will submit that there are issues that need to be addressed. This is not the vehicle to do it and there will be an opportunity for members of this legislature to craft good legislation for the next session. Thank you.

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

Representative PLOWMAN: Thank you Mr. Speaker, Men and Women of the House: An attorney once said to me, "there are only two things important in life that

matter losing your liberty and losing your children." Quite some time ago people used to be quite pressured into confessing to things that they had not done or that had no obligation to confess to and the miranda act was passed.

You can't be forced into confessing anymore. You have to be told of your rights when you are arrested. Losing your children you have absolutely no such thing that happens when someone takes your children. If you know a lot about child abuse you will know that a lot of the abuse that occurs is a control issue, a power issue. I can do what I want. Some of it is not, but a lot of it is.

Is it any better to have DHS be the big guy and the parent be the little guy and might makes right and he who has the gold makes the rules and all that other good stuff about who is in charge because they are bigger. I have worked on these cases on behalf of my constituents and also had the experience of working for a defense attorney. I have seen the reports come across the desk from the one person in the area who would do the DHS evaluations. Sometimes you could just fill in the blanks with the name.

I have seen a case where the person has had to sign a statement saying the acknowledge that their child is in danger so that they are not in denial anymore. As long as you say I didn't do it, you are in denial. Treatment can't start, the reunification process can't start until you admit to it. That is great if you are really in denial, but there have been cases where not only has the statement been signed with the intent that the child would be immediately returned. The child was not returned and it was used against this gentlemen in administrative proceedings as well as grand jury proceeding. When all he wanted to do was get his child back and fight the fight later.

We don't tell parents what their rights are. There is a pamphlet and if you can decipher it. I have not had a chance to look it all over, but is as said to have been written in fifth and sixth grade language. Then you are supposed to know what is available to you and what is not. I don't think it is any better for us to start beating on parents than it is for parents to beat on children.

Yes you should be able to choose your mental health professional. Yes I think there is a lot that can be done to make sure that DHS is not violating the rights of parents. I absolutely refuse to go after the first reporters. That is absolutely the wrong thing to do. The suspicions need to be reported then DHS needs to be doing its job and being held accountable for its actions, all of them.

My committee from last year and very few people are here remember the lady from Bangor who brought an audio tape of her visitation with her children. She walked in the room. She said to her two young boys, "Mommy missed you". She was astonished that was not appropriate. She said, "Chris sends his love".

Immediately the case worker started throwing toys across the room into a toy box. You could hear this. Screaming and yelling at this one woman that she was not going to see her children. You could hear the traumatized children being pulled out of the room and not understanding why they had gotten to see mommy for 30 seconds. Not understanding why everything had broken loose in the room and this was supposed to be a trained case worker who knows how to handle situations and a traumatized mother.

Where is the oversight? Where is the accountability? This isn't any better than a mother doing the same thing at home to her child. In fact, it is worse because this is two big people. We are looking for some accountability from DHS. If this isn't it, you will be seeing something else coming because there is more accountability with Ma Bell and its operators than there is with DHS and the case workers who hold the power of taking your child, keeping your child until you give in. Thank you.

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

Representative LABRECQUE: Thank you Mr. Speaker, Ladies and Gentlemen of the House: In the Legal and Veteran Affairs Committee, during our suits against the state, we addressed two particular issues, two particular bills which had to do with the Department of Human Services. If you think back, you will remember because those have been debated in the last few weeks. Think also of the testimony that you heard from the individuals who were looking for some sort of justification for the individuals and the problems that that individual had had.

It did not go unnoticed during our committee meeting and our work shops that there seemed to some policy problems that needed to be addressed in the Department of Human Services. Those bills were not what needed to be used to make these changes. This bill before you is a beginning and I believe it is a very needed beginning. I urge you to defeat the "Ought Not to Pass" and go on to the Majority Report.

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

Representative KILKELLY: Thank you Mr. Speaker. Mr. Speaker may I pose a question through the Chair.

The SPEAKER: The Representative may pose her question.

Representative KILKELLY: Thank you. There are many parts of this bill that concern me and the one that I am particularly concerned about is the purpose and benefit of an open court hearing under these really difficult circumstances. I guess part of the reason that concerns me so much is that at the time of my divorce which was a very difficult situation for me as an adult. I was grateful that the law had recently changed to allow that to be a closed hearing.

I can't even imagine being a child and being faced with a situation with a parent or parents in the room. People questioning it being a very difficult situation having it open. I just wish that someone could clarify for me what would be the purpose and benefit of an open court hearing.

The SPEAKER: The Representative from Wiscasset, Representative Kilkelly has posed a question through the chair to anyone who may care to respond. The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Thank you Mr. Speaker. In conferring with an attorney who has handled literally hundreds of such cases. It seems as though the majority of those people would prefer an open court hearing because it would give them an opportunity to prove their innocence. As I said before there is a provision in there for those people who do not wish an open hearing and it says upon a clear and convincing showing by a party that proceedings that are open to the public present a reasonable probability of causing permanent harm to the child to

whom the state seeks to protect or severe temporary harm that may have an enduring effect.

The court in its discretion may close the proceeding and the record of those proceeding to the public. We have got to realize that when such an accusation occurs the family is left in the dark. It is rather a nebulous accusation and there is no way of bringing it to light. This is one way to have a family that is open to the public in which a forum in which they can prove their guilt or innocence. Thank you.

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

Representative BAILEY: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I don't think there are many members in this body that don't realize that there is a problem in the child protective services with DHS. I would think that the committee realizing that we would have come out with an amendment that would be correcting those problems rather than a straight "Ought Not to Pass". I would urge you to vote no on the Majority "Ought Not to Pass" so that we can pass at least a bill that is going to start us in the right direction. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative McALEVEY: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I do have to take deference to what the good Representative from Enfield said about having an open meeting. Having an open court proceedings that would afford the family to defend themselves. I spent nine of my years as a police investigator doing nothing but child abuse investigations and the people who are allegedly accused of wrong doings when it comes in terms of their children have just much of a chance to prove their innocence in a closed hearing as they do in an open hearing. That argument does not hold a lot of weight with me.

When I started doing investigations in 1981 about one out of every twenty accusations turned out to be false. It doesn't take a rocket scientist to figure out which ones are false and which ones aren't. You use a check off list. When I left in 1993, it was two out of every ten turned out to be false accusations. That is more or less a sign of the times.

I have seen DHS work a step beyond what I thought their authority was and abused their position. In fact, in many police communities and many regular communities the joke is that DHS is the Gestapo of the State of Maine. Those are individual problems that need to be dealt with when you have an individual problem with a specific case worker.

On my committee, we are holding over a bill 1510 which is sponsored by Senator Pingree which is to make comprehensive changes to the law on child abuse. We recognize that this is not something that is indigenous to Criminal Justice or Human Services. This is a multidisciplinary approach to a multidisciplinary problem. I sympathize with the sponsors of this bill and I agree to some cases that we need to go after the people who are acting officious, heavy handed. I am not sure this bill is the right vehicle just yet. This bill does prompt the dialogue under the debate that we need to have right now.

I would hope that we could do something in the next session with all these bills being carried over and address this particular problem. We have to go after the procedures and the nuts and bolts of how these things work and not try to treat the symptom after the fact. I respect the sponsors of the bill because I know they are frustrated. I have worked with parents who are frustrated in this case. I was frustrated as an investigator because the minute I would lock up the bad guy, DHS was putting the child back into the home as fast as they could. That was their goal to reunite the family. The kid was going back into harm. There is no winners here.

My recommendation is to continue this dialogue after January 1st and do some kind of multidisciplinary approach and come up with some really effective legislation that will address the problem once and for all. Thank you very much.

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

Representative HARTNETT: Thank you Mr. Speaker, Men and Women of the House: It is not with a lot of joy that I part with my good colleagues and friends on Judiciary, Representative Nass and Representative Plowman. I am on the Majority Report and I encourage all of you when you vote to support the pending motion.

I am also quite delighted to hear from Representative McAlevey that the Criminal Justice Committee has carried over a bill because as I was sitting here the same thoughts I had in committee have come back to me. Something needs to be done. Something certainly needs to be done. I will tell you this is all very new to me. I came up here thinking the DEP was perhaps the most pretentious agency of government. I have since found out that guess was wrong and probably DHS is.

I have talked to some of the Representatives from DHS and they understand that there is some problems and that the charges of child abuse are often used falsely for some other gain. We need to deal with that. Again, I am so delighted to hear that Criminal Justice will be carrying over L.D. 1510 because that is precisely what we need. We need to critically analyze and craft solutions to deal with the problems. No solutions that get even with DHS or make it nearly impossible for them to do their job or make it sort of a fearful, frightful experience for the mandated reporters to report suspected child abuse.

Earlier it was mentioned that the handbook that DHS has and whether or not it is assertible. I have a copy of it here. I know we are not supposed to use props so I will put it down. Trust me I have a copy of it. It is about eight pages. It is in big print and right near the middle clearly stating in two sections are parents rights. Among those rights is that the court may appoint a lawyer for parents who cannot pay for an attorney.

These rights guaranteed in the Constitution are carried over in current DHS practice. I don't want to go on in great length. I think there is a problem. I am certain this isn't the solution. I encourage you to support the Majority "Ought Not to Pass".

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

Representative LANE: Mr. Speaker, Ladies and Gentlemen of the House: If DHS has a plan to inform parents, I hate to inform DHS but it isn't working.

Now imagine a DHS worker comes to your home, you have had no preliminary notice knocks on your door and says there has been an accusation against you concerning your children and this is a scenario that has happened. We will just take your child for respite weekends. Sometimes the family never does never see that child again.

Here is a brochure to read in its place. What kind of a mental condition are you going to be in to read. Lets sit down here and read this carefully to see what our next step is and what our rights are. I don't think so. I would probably bet that that brochure ends up in the garbage someplace in a state of frustrated hysteria.

Let me reiterate what this does. It does in no way tie the hands of DHS that is preposterous. It does in no way endanger the child. That is ridiculous. I have simplified it in this handout. It allows the family accused to choose their own suitably licensed mental health professional, if a mental evaluation is required. Currently they have no choice in the matter. It gives the parents the right to legal council and to be informed of that right. It also provides a court appointed attorney if the family is found indigent. This should be place in statute.

It opens up the case, big unless here, there is reason to believe the open hearing could cause harm to the child of the family. Every other proceeding is open court. This reverses it so that it is now an open court and the petitioner can request a closed court if they have good reason. It allows accused families the right to information gathered by DHS in the investigation. Currently even though we have a Freedom of Information Act there is a little clause that allows agencies the discretion to close off information to these families. It requires a petitioner to notify parents by all reasonable means, big unless here, unless there is reason to believe the child would be harmed.

We have covered all bases in this amendment folks and lastly the child may not be in state custody more than seven days without a hearing at which both parties may present evidence. I can't imagine what is wrong with that or how that could possibly cause harm. If abuse is indeed found by the court, the court must state in writing and in detail its findings. It is simple. It is basic. It is a beginning and I urge you to vote against the Majority "Ought Not to Pass" Report so that we can pass the Minority "Ought to Pass" Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: Thank you Mr. Speaker, Ladies and Gentlemen of the House: As I read this bill on page four of the bill, section 13, paragraph 2B. I see in there that it indicates that the agency or DHS workers is required to notify the parents in writing of their rights to an attorney during the investigation. That to me puts the child in jeopardy. If there are potentially an abusive parent in the household and DHS is required to notify those parents during the investigation period of that case that has severe potential to put a child at jeopardy.

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

Representative BUNKER: Thank you Mr. Speaker, Men and Women of the House: I am sitting here. I know we got a late day and I am just frustrated. I just

don't know what to say. I have dealt with these investigations myself and I watched the manipulators, the abusers and how they can manipulate a system. If you pass this bill as it said today, you are going to give those manipulators all the tools in the world to do exactly what they have been doing for years. It is just frustrating to me that we see that. I agree.

I am the one who stood up the other day and said that there are people being abused by the DHS system. I am the first one to say that we have to hold those people accountable and hold them to those procedures and hold them to the policies. We don't change the laws to put the balance on the side of the abuser. That is what you are going to do with this legislation, if you pass it. You are going to say well we have to warn them first. You are going to say you have to get them a lawyer. We have to be in the case. There is no court time so if we give them that lag time of having to provide them with a lawyer before they have a hearing, what are you doing. You are tipping that scale away from that kid. We are here ladies and gentlemen to make policy to protect the children, not the abusers. Thank you.

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

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

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

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

ROLL CALL NO. 239

YEA - Adams, Ahearne, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Cross, Daggett, Davidson, Desmond, DiPietro, Donnelly, Dore, Driscoll, Dunn, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Hartnett, Hatch, Heeschen, Heino, Johnson, Jones, K.; Joseph, Kerr, Kilkelly, Kneeland, Kontos, LaFountain, Lemaire, Lemke, Lemont, Libby JL; Lindahl, Luther, Madore, Martin, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell JE; Nadeau, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Plowman, Poirier, Pouliot, Povich, Reed, G.; Richardson, Ricker, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stone, Taylor, Thompson, Townsend, Treat, Tripp, True, Truman, Tyler, Vigue, Volenik, Watson, Winglass, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Birney, Buck, Campbell, Clukey, Damren, Farnum, Greenlaw, Hichborn, Joy, Joyce, Joyner, Labrecque, Lane, Layton, Libby JD; Look, Lovett, Lumbra, Marshall, Murphy, Nass, Pendleton, Perkins, Pinkham, Reed, W.; Rice, Robichaud, Rosebush, Savage, Stedman, Strout, Tufts, Tuttle, Underwood, Waterhouse, Wheeler, Whitcomb, Winsor.

ABSENT - Dexter, Guerrette, Jacques, Jones, S.; Keane, Mitchell EH; Morrison, Poulin, Rotondi, Stevens, Yackobitz.

Yes, 98; No, 42; Absent, 11; Excused, 0.

98 having voted in the affirmative and 42 voted in the negative, with 11 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

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

ENACTORS

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Maintain the Current Amortization Schedule for Unfunded Liabilities and to Prohibit Future Unfunded Liabilities of the Maine State Retirement System (S.P. 70) (L.D. 158) (C. "A" S-276)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being a Constitutional Amendment, and a two-thirds vote of the House being necessary, a total was taken. 127 voted in favor of the same and 5 against, and accordingly the Resolution was finally passed, signed by the Speaker and sent to the Senate.

Emergency Measure

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

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. 110 voted in favor of the same and 17 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997 (H.P. 580) (L.D. 785) (Governor's Bill) (C. "A" H-557)

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. 125 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

An Act Relating to Criminal Forfeitures (H.P. 1058) (L.D. 1487) (C. "A" H-568)

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. 127 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

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

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. 107 voted in favor of the same and 15 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Mandate

An Act to Amend the Charter of the Corinna Water District (H.P. 1127) (L.D. 1572) (C. "A" H-579)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 125 voted in favor of the same and 2 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Mandate

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1995 (H.P. 1137) (L.D. 1580)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of the same and 3 against, and accordingly the Mandate was finally passed, signed by the Speaker and sent to the Senate.

Mandate

An Act to Regulate Hybrid Wolves (S.P. 360) (L.D. 986) (H. "A" H-566 and H. "B" H-567 to C. "A" S-287)

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

Representative UNDERWOOD of Oxford 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 Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: Just a moment to clarify what this bill is and why it is a mandate. There are obviously a great number of concerns about the rabies epidemics that are headed toward us. It is very important for us to be able to know where hybrid wolves are and to have them registered.

Currently there is no requirement for those animals to be licensed. There is also concern that hybrid wolves there is no way of knowing how long it takes for the rabies to incubate in them. It is a

real concern. What this bill does is require that the owner of a hybrid wolf would have to have that animal licensed in the same way that a dog is licensed. The fees are collected in the same way and a certain amount of the fees stay with the town. It is not completely unfunded. It is similar to what happens to a dog. 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. 240

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

NAY - Labrecque, Underwood, Waterhouse.

ABSENT - Cloutier, Dexter, Dore, Guerrette, Jacques, Keane, Mitchell EH; Morrison, Poulin, Rotondi, Stevens, Whitcomb, Yackobitz.

Yes, 135; No, 3; Absent, 13; Excused, 0.

135 having voted in the affirmative and 3 voted in the negative, with 13 being absent, in accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Amend the Laws Pertaining to the Duties of Skiers and Tramway Passengers by Defining Inherent Risks (H.P. 801) (L.D. 1118) (C. "A" H-404; H. "A" H-575)

An Act to Identify for Sentencing Purposes Certain Factors That Aid in Predicting High-risk Sex Offenders (H.P. 900) (L.D. 1276) (C. "A" H-513)

An Act Concerning Plastic Holding Devices Used in Packaging (H.P. 940) (L.D. 1329) (C. "A" H-273)

An Act to Change the Licensing Year for Certain Marine Resource Licenses and to Establish an Eel Fishing License (H.P. 1032) (L.D. 1451) (C. "A" H-528; H. "A" H-573)

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

An Act to Deregulate the Costs and Revenues Associated with Acute Care Provided to Involuntarily Committed Patients within the Hospital Care Finance

System (H.P. 1110) (L.D. 1558) (Governor's Bill) (C. "A" H-555)

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

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

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. 60 voted in favor of the same and 38 against, subsequently, the House extended until 10:00 p.m.

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

SENATE PAPERS

Bill "An Act to Require Annual Reporting by the Board of Governors of the Maine Workers' Compensation Residual Market Pool" (S.P. 597) (L.D. 1584) (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.

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

Under suspension of the rules and without reference to a Committee, the Bill was read twice and passed to be engrossed in concurrence.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997" (EMERGENCY) (H.P. 516) (L.D. 706) (Governor's Bill) on which the House adhered to its former action whereby the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-386) Report of the Committee on Appropriations and Financial Affairs was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-386) as amended by House Amendment "A" (H-402) thereto in the House on June 12, 1995.

Came from the Senate with that Body having insisted on its former action whereby the Minority "Ought to Pass" as amended by Committee Amendment "B" (H-387) Report of the Committee on Appropriations and Financial Affairs was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (H-387) and asked for a Committee of Conference in non-concurrence. (The Senate appointed the following as conferees: Senator HANLEY of Oxford, Senator AMERO of Cumberland and Senator BUSTIN of Kennebec)

On motion of Representative KERR of Old Orchard Beach, the House voted to Adhere. Ordered sent forthwith.

ORDERS

On motion of Representative KERR of Old Orchard Beach, the following Joint Order (H.P. 1142)

ORDERED, the Senate concurring, that Bill, "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997," H.P. 516, L.D. 706, and all its accompanying papers, be recalled from the Legislative Files to the House.

Was read.

A two-thirds vote being necessary, a vote of the House was taken. 100 voted in favor of the same and 2 against, subsequently, the Joint Order (H.P. 1142) was passed and sent up for concurrence. Ordered sent forthwith.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Require Notification to the Landowner When Land Is Being Considered for Placement in a Resource Protection Zone" (H.P. 609) (L.D. 819) on which the Majority **"Ought to Pass"** as amended Report of the Committee on **Natural Resources** was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-492) as amended by House Amendment "A" (H-574) thereto in the House on June 23, 1995.

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

On motion of Representative BUNKER of Kossuth Township the House voted to Insist.

Non-Concurrent Matter

Bill "An Act to Prohibit Retrofits of Nuclear Power Plants without Permission of the Public Utilities Commission" (H.P. 676) (L.D. 927) on which the Minority **"Ought to Pass"** as amended Report of the Committee on **Utilities and Energy** was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-435) in the House on June 21, 1995.

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

Representative CLUKEY of Houlton moved that the House Recede and Concur.

Representative BERRY of Livermore requested a roll call on the motion to recede and concur.

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

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

The pending question before the House is the motion to Recede and Concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 241

YEA - Aikman, Ault, Bailey, Barth, Bigl, Birney, Buck, Bunker, Cameron, Campbell, Carleton, Chick, Clukey, Cross, Damren, Driscoll, Dunn, Farnum, Gould, Guerrette, Hartnett, Hichborn, Jones, S.; Joy, Joyce,

Joyner, Kilkelly, Kneeland, Labrecque, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Meres, Nass, Nickerson, O'Gara, Pendleton, Perkins, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Robichaud, Savage, Stedman, Stone, Taylor, True, Tufts, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

NAY - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, Dore, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Green, Hatch, Heeschen, Heino, Johnson, Jones, K.; Kontos, LaFountain, Lemaire, Lemke, Look, Lovett, Luther, Martin, Mitchell EH; Mitchell JE; Murphy, O'Neal, Paul, Peavey, Povich, Rice, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Spear, Strout, Thompson, Treat, Tripp, Truman, Tuttle, Tyler, Vigue, Volenik, Watson, Winn, The Speaker.

ABSENT - Dexter, DiPietro, Donnelly, Greenlaw, Jacques, Joseph, Keane, Kerr, Morrison, Nadeau, Ott, Poulin, Pouliot, Rotondi, Simoneau, Stevens, Townsend, Yackobitz.

Yes, 66; No, 67; Absent, 18; Excused, 0.

66 having voted in the affirmative and 67 voted in the negative, with 18 being absent, the motion to Recede and Concur did not prevail.

Subsequently, the House voted to Adhere.

Non-Concurrent Matter

Bill "An Act Regarding Timothy Harkins and Maine State Retirement System Benefits" (H.P. 1140) (L.D. 1583) which was referred to the Committee on **Labor** in the House on June 26, 1995.

Came from the Senate indefinitely postponed in non-concurrence.

On motion of Representative HATCH of Skowhegan, the House voted to Insist.

ENACTORS

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

An Act Regarding Insurance Coverage for Mental Illness (H.P. 432) (L.D. 595) (C. "A" H-521)

An Act to Clarify Terms and Increase Effectiveness of the Lead Poisoning Control Act (H.P. 1069) (L.D. 1504) (C. "A" H-556)

An Act to Prevent the Use of Correctional Facilities for the Detention of the Mentally Ill (H.P. 1072) (L.D. 1507) (C. "A" H-554)

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

An Act to Clarify the Animal Welfare Laws (S.P. 497) (L.D. 1356) (C. "A" S-298)

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

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: This animal welfare bill has some serious items in it as far as I am concerned. I would like to take time enough to read you a letter

regarding this. It says, This bill allows anyone over the age of 18 who owns a dog or cat or acts as the owner's agent to shoot with a gun, "utilizing a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot."

In May, a Kittery patrolman trained in the use of firearms and using a nine millimeter handgun tried to shoot a dog. He shattered his paw and punctured its lungs, but did not produce instantaneous death. Following \$1,500 worth of treatment, the dog is recovering. L.D. 1356 would make it legal for everyone and anyone to play "Rambo" with dogs and cats. Mr. Speaker, when the vote is taken I request a roll call.

Representative LOOK of Jonesboro 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 Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: The item that the good Representative mentioned is certainly in this bill. There are a number of other items in this bill and I think it is important to know all of them. One of the items is a \$10,000 fund that is now collected for dog licenses. It is going to be turned over to the Animal Welfare Board for them to use for, say, a neutering fund. We have created many more opportunities for people who can't afford to get their animals spayed and neutered to have that accomplished, so we can cut down on the number of pets that need to be euthanized. We have also made some changes in dog licensing which are very helpful to municipalities in terms of when warrants are issued and the late fees for someone who has chosen not to bother to register their dog. We have made those changes as well.

The change that the Representative mentioned has to do with the legal methods for euthanasia. I would like to explain how that came about. There was a situation last year here in Kennebec County in which a person attempted to euthanize his pet using a firearm. He shot the animal twice and the animal was not killed. The animal was rescued by someone and taken to the vet and is now, as reported at the hearing, doing fine. The District Attorney was contacted. The Animal Welfare Board was contacted. The Department of Agriculture was contacted and they were all asked, can this person be prosecuted? It seems that under current law that person could not be prosecuted because the person had privilege as the owner of that animal. He could euthanize the animal in any way he or she deems fit. There was no ability to prosecute the person for animal cruelty.

One of the other intricate pieces of this legislation is that it removes that point of privilege. A person may euthanize a pet in two ways. First, to take that animal to the veterinarian for a barbiturate overdose. Second, to use a firearm. I

understand that for many people the idea of using a firearm is something that is scary or overly violent.

I would like to tell you the story of one guy who called me about this bill. It was an older gentleman from the middle of the state and he has been raising hunting dogs for the last 40 years. He said that one of the things that concerned him when he read an article in the paper about opposition to this bill was with the number of hunting dogs he had. Obviously, there were occasions where some needed to be euthanized. He talked about how much he cared about his animals. I have no reason to believe that he didn't. He said that the one dog that he had ever taken to the vet to be euthanized, it upset him more than the animals that he had taken out to his pet cemetery out in back of his house and had put them down himself. It was because the animal didn't like going to the vet. By the time she had gotten into the truck and had gotten to the veterinarian, she was a nervous wreck and he was distressed. He said that he felt that she went through more trauma in that experience than had other animals that he had put down.

This bill is not a bill that condones cruelty. This bill provides reasonable people with reasonable options to make reasonable decisions. It does not say that you can willy nilly go out and shoot a dog or a shoot a cat. What it says is you need to make that choice. If you are living on next to no money and you are in a situation where you have an animal that needs to be put down, do we need to have a law that says you need to pay \$40 to \$100 to have that animal taken to the veterinarian when you can't afford it? What if you are far away from the veterinarian and you don't have any way to get there? This bill merely says there is a current practice going on and in some cases it is reasonable and the law should not criminalize people who, in fact, are doing what they believe is in the best interest of themselves, their families and their animals.

One of the other provisions in this bill talks about stray animals. There has been a contention that what we are allowing is someone to feed a cat for 10 days and then ultimately shoot that cat. That is not what that provision is in there for. What we said is, if you have a stray cat for 10 days or more, you are considered its keeper. The reason is that a lot of municipalities find themselves in a situation of going into a house where there are 40, 50 or 60 cats and they need to take those because they are not being taken care of and the person will say, they are all strays. Whether that person has the ability to pay for care of those animals or not, your municipality has to pay for that because they are strays. What we are saying is unless all 40 of those cats showed up on the same day and it was less than 10 days ago, you are liable if you have the means to do that. I think that is a responsible thing to do.

I do believe that this bill, in fact, in all of its aspects is in the best interest of animal welfare in this state. The act of euthanasia in particular was brought forward by the Department of Agriculture and the Animal Welfare Board. Certainly one would expect that their belief is in the best interest of animals as well. There are a number of things in this bill and I would urge you to support the unanimous committee report. Thank you.

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

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: What you just heard from the good Representative from Wiscasset, Representative Kilkelly is all correct. This is a bill that we spent a lot of time on, which spent almost the entire session in committee working with the department and Animal Welfare Board in trying to come up with many decisions in this thick bill we had. We worked with town officials in coming up with different licensing procedures. We worked on problems with animal shelter and dog kennels. We worked with the Animal Welfare Board in determining many of these things. All I am saying is a lot of work went into this bill. I would strongly urge that we support the enactment of this bill. Thank you.

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

Representative CROSS: Mr. Speaker, Ladies and Gentlemen of the House: My co-chairman, Representative Kilkelly has told you just the way it is. It was a 13-0 Committee Report. As far as I am concerned, I hate to say vote against Representative Look, but I am asking you to do it today. We need this enactment as soon as possible. Thank you.

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

Representative MARTIN: Mr. Speaker, Members of the House: I agree that the committee did an excellent job in upgrading the laws dealing with dogs and cats. I do have concerns with the question and the way it is worded, which deals with how someone can kill a dog. My concern lies with the three words, death is instantaneous. I am just trying to figure out what a humane officer is going to do with those three words.

Someone is going to be a witness at some point to one of these incidents and I can hear it all now as to someone being dragged into court on that basis. I certainly would not encourage anyone who owns a dog or cat to use this provision of the law. In effect, the question is going to arise on the question of what is instantaneous. I can see the legal debates that will continue around those three words. I am not sure, at this point, it is worth amending. I think some thought needs to be given between now and January to deal with that issue. Overall, this bill is a real improvement over existing law in every way, except those three words. I am not sure why those three words were chosen, but between now and January, I would hope that someone gives some thought to how to deal with that problem. It is going to develop.

I know in my area it is 60 and 100 miles, in some areas, to the humane society. I can guarantee you, I know what is going to happen. There are people who are rather fanatical on what you do with a dog or a cat. I can guarantee you that the word will spread very quickly that someone shot one and then I can see it all transpire. It is unfortunate because I know what the committee is attempting to do, but I see the point of view that some people on the other side are coming from. The potential here is a serious one, in the long run.

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. 242

YEA - Adams, Ahearn, Ault, Bailey, Benedikt, Berry, Bouffard, Brennan, Buck, Bunker, Cameron,

Campbell, Carleton, Chartrand, Chase, Chick, Chizmar, Cloutier, Cross, Daggett, Damren, Davidson, Desmond, Driscoll, Dunn, Etnier, Farnum, Fisher, Gamache, Gates, Gieringer, Gooley, Gould, Green, Guerrette, Hartnett, Heeschen, Heino, Hichborn, Johnson, Jones, S.; Joyce, Joyner, Kilkelly, Kneeland, Kontos, Labrecque, Lane, Layton, Lemont, Lindahl, Lumbra, Marvin, McElroy, Meres, Mitchell EH; Mitchell JE; Nickerson, O'Gara, O'Neal, Paul, Peavey, Perkins, Pinkham, Plowman, Poirier, Povich, Reed, G.; Reed, W.; Rice, Richardson, Robichaud, Rosebush, Samson, Savage, Shiah, Sirois, Spear, Stedman, Strout, Taylor, Thompson, Tripp, True, Tyler, Vigue, Wheeler, Whitcomb, Winglass, Winn, Winsor.

NAY - Aikman, Bigl, Birney, Clark, Clukey, Gerry, Jones, K.; Joy, LaFountain, Lemaire, Lemke, Libby JD; Libby JL; Look, Lovett, Madore, Marshall, Martin, Mayo, McAlevy, Murphy, Nass, Pendleton, Ricker, Rowe, Saxl, M.; Stone, Treat, Truman, Tufts, Tuttle, Underwood, Volenik, Waterhouse.

ABSENT - Barth, Dexter, DiPietro, Donnelly, Dore, Fitzpatrick, Greenlaw, Hatch, Jacques, Joseph, Keane, Kerr, Luther, Morrison, Nadeau, Ott, Poulin, Pouliot, Rotondi, Saxl, J.; Simoneau, Stevens, Townsend, Watson, Yackobitz, The Speaker.

Yes, 91; No, 34; Absent, 26; Excused, 0.

91 having voted in the affirmative and 34 voted in the negative, with 26 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 Chair laid before the House the following item which was tabled earlier in today's session:

Bill "An Act to Provide Greater Access to Health Care" (S.P. 343) (L.D. 948) which was tabled by Representative CARLETON of Wells pending adoption of Committee Amendment "A" (S-279).

Representative BIRNEY of Paris presented House Amendment "D" (H-622) to Committee Amendment "A" (S-279) which was read by the Clerk.

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

Representative BIRNEY: Thank you Mr. Speaker. I will try not to belabor this issue. Basically the law as we have it now, there is a delegation by a licensed physician to a certified nurse anesthetist.

This amendment removes the certified nurse anesthetist from the current Committee Report that is before us. It prevents them from practicing independently and would keep them at the point where they are now, where there is delegation by a licensed physician. Anesthesia care is by no means primary care. None of the arguments to support this bill apply to anesthesia. It is my opinion, plain and simple, that CRNAs should under no circumstance be practicing without physician delegation. The practice of anesthesia is much more than putting the patient to sleep. It is an undertaking that requires the exercise of medical judgment throughout the pre-operative, operative and post-operative period.

In order to make safe and appropriate decisions the provider must be able to review all diagnostic data. Obtain a relevant medical history by reviewing the patients medical records and perform a physical

exam focusing on issues pertinent to undergoing anesthesia including diagnosing any unrecognized or inadequately treated conditions that could create risk for the surgery patient. During the operation the anesthesiologist delivers or directs the delivery of the selected anesthesia agents while continually monitoring the patients response and vital functions. Decisions must be made in a matter of seconds to respond to conditions that may arise, such as cardiac or respiratory problems. These moments in the operating room are not time for discussion to make a referral. This is the time for decisive medical decision making and action.

There must be medical direction in the operating room by an anesthesiologist or a designated surgeon. Currently nurse anesthetists are required to have a four year bachelor's degree followed by a year of critical care nursing and two years of anesthesia training. This has not always been the case of the CRNAs practicing, only about 50 percent have bachelor's degrees and less than 20 percent have a master's degree or other graduate degree. Anesthesiologists, by comparison, have four years of undergraduate education including specific science requirements, four years of medical school, including two years of science and two years of clinical instruction including diagnosis therapy covering all the major medical specialties and four years of residency training, including one year of general specialized medicine and three years of clinical anesthesiology.

Federal regulations for an accreditation for facilities under medicare and medicaid programs require that a nurse anesthetist be under supervision. In its 1992 publication of the CRNAC schedule, the Health Care Finance Administration reiterated the need for these minimum standards saying it would not be appropriate to allow anesthesia administration by a non-physician anesthetist unless supervised by either an anesthesiologist or an operating practitioner. Similarly the Joint Commission of Accreditation of Health Care Organizations upholds the medical supervision of anesthesia plans and requires that organized anesthesia services be supervised by a physician. Anesthesia services should be directed by a physician for the health and the safety of the patients. I strongly believe that nurse anesthetists should not be practicing independently. I urge this body to accept this amendment. Shouldn't this be a part of our state law.

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

Representative ROWE: Mr. Speaker, Colleagues of the House: We are going to have several amendments tonight, this is the first of many. I would ask you to stay with your vote today and defeat all of them.

This particular amendment, as the good Representative Birney said, deals with certified nurse anesthetists. First of all, I don't agree and if I am wrong somebody can correct me. This is about nurse anesthetists doing diagnosing. They administer anesthetic to patients. They can't prescribe under L.D. 948. The only individuals that can prescribe are certified nurse practitioners and certified nurse midwives. Certified registered nurse anesthetists administer more than 65 percent of all anesthetic given to patients each year. Certified registered nurse anesthetists are the sole providers of anesthetic in 85 percent of the rural hospitals in

this country. They work in almost every setting in which anesthesia is given, operating rooms, dentist's offices and ambulatory surgical settings.

They don't work alone. There is a surgeon with them. They are part of a team. They administer the anesthesia and then the surgeon performs the surgery and that is the way it works. Again, we are going to many of these. I know you knew what you voted for today. I think we all did. I would ask you to hold your position. Thank you very much.

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

Representative BIRNEY: Mr. Speaker, Ladies and Gentlemen of the House: What Representative Rowe said is exactly what I want to see in the law.

The Chair ordered a division on adoption of House Amendment "D" (H-622) to Committee Amendment "A" (S-279).

Representative BIRNEY of Paris requested a roll call on adoption of House Amendment "D" (H-622) to Committee Amendment "A" (S-279).

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 adoption of House Amendment "D" (H-622) to Committee Amendment "A" (S-279). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 243

YEA - Aikman, Ault, Bailey, Bigl, Birney, Campbell, Carleton, Chick, Clukey, Cross, Damren, Donnelly, Dunn, Gamache, Gooley, Gould, Guerrette, Jones, S.; Joy, Joyce, Joyner, LaFountain, Lane, Layton, Libby JL; Lindahl, Look, Lovett, Lumbra, Marvin, McElroy, Mitchell EH; Mitchell JE; Nass, Nickerson, Paul, Plowman, Pouliot, Povich, Reed, G.; Reed, W.; Robichaud, Savage, Saxl, J.; Saxl, M.; Simoneau, Stedman, Stone, Taylor, Tufts, Underwood, Waterhouse, Winglass, Winn, Winsor.

NAY - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gates, Gieringer, Green, Hartnett, Heesch, Hichborn, Johnson, Jones, K.; Joseph, Kerr, Kil Kelly, Kneeland, Kontos, Labrecque, Lemaire, Lemont, Libby JD; Madore, Marshall, Martin, Mayo, McAlevey, Meres, Murphy, Nadeau, O'Gara, O'Neal, Ott, Peavey, Pendleton, Perkins, Pinkham, Rice, Richardson, Ricker, Rosebush, Rowe, Samson, Shiah, Sirois, Spear, Strout, Thompson, Townsend, Treat, Tripp, True, Truman, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, Whitcomb, The Speaker.

ABSENT - Barth, Buck, Dexter, Gerry, Greenlaw, Hatch, Heino, Jacques, Keane, Lemke, Luther, Morrison, Poirier, Poulin, Rotondi, Stevens, Yackobitz.

Yes, 55; No, 79; Absent, 17; Excused, 0.

55 having voted in the affirmative and 79 voted in the negative, with 17 being absent, House Amendment "D" (H-622) to Committee Amendment "A" (S-279) was not adopted.

Representative LUMBRA of Bangor presented House Amendment "B" (H-619) to Committee Amendment "A" (S-279) which was read by the Clerk.

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

Representative LUMBRA: Mr. Speaker, Men and Women of the House: This amendment comes from this morning's testimony. We heard a lot about that this will apply to master's degree RNs and I believe in this strongly. We have many levels of nurse practitioners, two year associate degrees, plus a nine month certificate as a nurse practitioner. Three year diploma, plus a nine month certification as a nurse practitioner. All this amendment does is what we voted on this morning, supposedly, this says that a nurse practitioner who we are going to give the right to practice medicine independently from a physician will have to have a master's level education. Also, it will require that they have 36 months of some sort of clinical training with the supervision of a physician.

Now I believe in parity, so I look at what the requirements of a physician. Physicians have four year bachelor degree, four year medical school and three year residency before they can independently practice. Eleven years minimum. What we are asking here, with this amendment, is simply that the nurse practitioner will have a master's degree and 36 months of practice with physician supervision. The nurse practitioner now will be grandfathered. So this amendment will not effect nurse practitioners now, they will be grandfathered, so I believe in holding peoples feet to the fire. That's what we heard we were getting this morning with L.D. 948, so I ask you to support this amendment. Thank you.

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

Representative ROWE: Thank you Mr. Speaker, Men and Women of the House: This second Amendment would extend the 24 month requirement to 36. As you know when this bill came out of committee there was no requirement, because we felt that the training was adequate and the educational background to allow an advance registered nurse to practice within their scope of practice.

The amendment which I now support is 24 months, that's 24 months of intensive clinical work under the supervision of a licensed physician. I would submit that that is substantial. The master's issue what you heard this morning was that all certifying bodies require master's degree to be certified. There's one exception, that's well women care because that's a very narrow specialty and presently there is no master's degree required, however, there is advanced education. Again, I think if you take a careful look at the L.D. or the Committee Amendment "A" to the L.D. I think it has adequate credentialing in it, adequate educational requirements and I think 24 months is adequate time to allow these professionals to move and to do the work which they are trained for. Again, this isn't medicine, this is a practice of advanced nursing. It's what they're trained for. You know people who are doing it today. I strongly urge you to defeat the pending motion. Thank you.

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

Representative DAVIDSON: Thank you, Mr. Speaker, Men and Women of the House: I would like to pose a question, if I could through the Chair.

The SPEAKER: The Representative may pose his question.

Representative DAVIDSON: Just looking at these numbers I might pose this to the good Representative from Bangor, if I can. Is there a reason why there's a specific date for the 36 months as opposed to the 24. Is there specific data that shows that beyond this extra training, there's specific things the nurses will learn or specific things that will be good for the practice that we've reached this number, and even reached 24.

The SPEAKER: The Representative from Brunswick, Representative Davidson has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bangor, Representative Lumbra.

Representative LUMBRA: Thank you Mr. Speaker. Yes, the 36 months comes from several things. One is, I believe, the 24 months that we are talking about is in a different amendment that has not been submitted to this House yet. The 36 months, I believe in the 36 months, because I looked up what do we require from our physicians. We require from our physicians, four years of under-graduate, four years of medical school, and three years, 36 months, of residency, or clinical. So that's where I'm getting that from, the three years. I think if it's good for our physicians, to have that kind of training that the very least we can do is expect it from our nurse practitioners. What we're simply asking is for master's degree with three years of practice with the supervision of a physician, they get paid quite well for this residency, if we want to call it that. It's just three years of practice with supervision. After that then they can go out, hang their own shingle out and practice medicine. I think it's a protective measure for people seeking medical treatment from the nurse practitioner, that they have had that additional training.

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

Representative CAMERON: Thank you, Mr. Speaker, Men and Women of the House. In the interest of the hour, I would just like to respond to a couple of things. It's apparent to me that the 36 months is somebody's opinion and I want to emphasize again that we are not asking them to be allowed to practice medicine. We are asking them to be allowed to practice the full extent of their education. End of story. They are not doctors, they're not practicing medicine, they are nurses with more education, very simply, thank you.

Representative ROSEBUSH of Millinocket requested a roll call on adoption of House Amendment "B" (H-619) to Committee Amendment "A" (S-279).

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

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

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

Representative FARNUM: Mr. Speaker and members of the House: In South Berwick, I have three nurses who are now going to school to get their master's degrees

and they favor this program. I don't think they favor all these extra months that you're adding to it. They are working hard and they are paying for it out of their own money.

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

Representative LUMBRA: Thank you, Mr. Speaker and Ladies and Gentlemen of the House: I just cannot let it go that we are not allowing nurse practitioners to practice medicine when you independently diagnose and you independently treat with medication your diagnosis, that is practicing medicine. So I would urge you to please support this amendment. Thank you.

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

ROLL CALL NO. 244

YEA - Aikman, Ault, Bailey, Birney, Carleton, Chartrand, Chick, Clukey, Cross, Damren, Donnelly, Driscoll, Dunn, Gerry, Gooley, Guerrette, Hichborn, Jones, S.; Joy, Joyce, Joyner, LaFountain, Lane, Layton, Libby JD; Libby JL; Look, Lumbra, Marshall, Marvin, McElroy, Meres, Mitchell JE; Nass, Nickerson, Plowman, Pouliot, Povich, Reed, G.; Reed, W.; Robichaud, Rosebush, Savage, Saxl, J.; Saxl, M.; Simoneau, Stedman, Taylor, Tufts, Underwood, Waterhouse, Winglass, Winn, Winsor.

NAY - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, Campbell, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gould, Green, Hartnett, Heeschen, Johnson, Jones, K.; Joseph, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, Lemaire, Lemont, Lindahl, Lovett, Madore, Martin, Mayo, McAlevey, Mitchell EH; Murphy, Nadeau, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Rice, Richardson, Ricker, Rowe, Samson, Shiah, Sirois, Spear, Stone, Strout, Thompson, Townsend, Treat, Tripp, True, Truman, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, Whitcomb, The Speaker.

ABSENT - Barth, Bigl, Buck, Dexter, Greenlaw, Hatch, Heino, Jacques, Keane, Lemke, Luther, Morrison, Poirier, Poulin, Rotondi, Stevens, Yackobitz.

Yes, 54; No, 80; Absent, 17; Excused, 0.

54 having voted in the affirmative and 80 voted in the negative, with 17 being absent, House Amendment "B" (H-619) to Committee Amendment "A" (S-279) was not adopted.

Representative SAXL of Bangor presented House Amendment "A" (H-618) to Committee Amendment "A" (S-279) which was read by the Clerk.

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

Representative SAXL: Mr. Speaker, Ladies and Gentlemen of the House: This is really a simple little amendment. It just provides for a patient's right to know. That is a patient's right to know that a nurse practitioner is going to be taking care of them. I think this is a worth while thing to do. We are letting people know what the level of training is of the person caring for them. I do this and ask for your support. Thank you.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: I have looked at this amendment and I do have some concerns about it. It does seem reasonable on its face, but I think it is overly broad and I think it is burdensome. Presently in this state, certified psychiatric clinical nurses, nurse specialists, who have practiced for over 20 years without physician oversight, as you may or may not know. Practically all of these people have master's degrees and some of them have doctorate's degrees. They provide primary care and psychotherapy. To pass this amendment would be to do something that hasn't been done, as I said, for 20 years.

The other issue is certified nurse midwives are required by national standards to have physician consultation. As you may recall in the bill, in Committee Amendment "A", it does say that advanced nursing include consultation with and referral to medical and other health care providers when appropriate for the clients health care needs.

Finally, I brought up earlier nurse anesthetists who practice in rural hospitals where there is not an anesthesiologist, maybe some days there are and some days there aren't. With this bill it would seem quite cumbersome, some days you may give notice to a patient and some days you wouldn't. It would depend if a physician or an anesthesiologist was present. I guess the word oversight may mean many things to many people. There is going to be some hybrid relationships in this state with respect to the relationship between advanced practice nurses and physicians. Some probably many will continue to practice under the delegation of duties in the current statutes. Certainly there are those in between that will have ongoing relationships with physicians. All of them will refer and consult from time to time.

I think this amendment is basically too strict. It is not going to meet reality because we are going to have a lot of different models, if you will, of the ways that advanced nurses practice. For all these reasons, I would ask you to oppose the pending motion. Thank you.

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

Representative SAXL: Mr. Speaker, Ladies and Gentlemen of the House: I really take objection to that. It seems to me that a person has the right to know about who is going to treat them and what their level of expertise is. You have the right to informed consent. You have the right to how you are treated and for what. It seems to me that you have the right to know the credentials of those people who are treating you. If you go into a doctor's office, you will see his diplomas on the wall. If you are being treated by a nurse, it seems to me that you ought to know whether you are being treated by a nurse practitioner and what the level of educational background is.

It seems only right to me that you should be able to make an informed decision about who is going to treat you and what their background is. I think to call this overburdensome to inform a patient about what the level of experience and education is, is really ridiculous. I would appreciate your support for this and think that it is really hypocritical to suggest that this is overly burdensome.

The SPEAKER: The Chair recognizes the Representative from Glenburn, Representative Winn.

Representative WINN: Mr. Speaker, Ladies and Gentlemen of the House: My former committee was Business Legislation and I devoted about two years of my life to try and have this bill passed. The reason why I have been voting against it today is because of the lack of training that goes on in the State of Maine. I want to make that clear that other states that allow this sort of this to happen in Canada and whatnot have trained their nurses in advanced practice to much higher levels than our institutions are doing. I am very much for the concept, I just have a real problem because of the lack of training. Specifically my comments regarding this amendment. I want to address the concerns that were raised. My response is that what we need to be looking out for is the best interest of the consumers. One of the reasons why I have been so concerned about this issue is because my oldest daughter, when she was eight went to a nurse in advanced practice who said she had a virus. It turned out that a few hours later Loni had congestive heart failure and acute kidney failure. It was a couple of days before Christmas and the night before I was supposed to earn my master's in business administration. I don't want to see any other families go through what my family went through. It was years of terror for my daughter recuperating from that. Three reasons why I support Representative Saxl's amendment is three little details that most people aren't aware of. One is the nurses in advanced practice don't have the right to admit people to the hospital. They haven't got that squared away yet. If you are under the sole care of a nurse in advanced practice and she is not linked up with a doctor, there could be a time delay in getting admitted into the hospital. I am sure they will straighten that out quickly, but in the meantime that problem does exist. The second issue is about coverage. Most of these nurses are used to working from 8 to 5. They are not used to working a 3 o'clock in the morning. You need to be aware of that as a patient that you may call somebody up and they don't have anybody that is covering for you during the week of the 4th of July when they are on vacation. The third and final issue has to do with coverage with referral. To me that is the most important. When I was working on the bill, I asked one of the nurses in advanced practice, who would you refer your patient to if you suspected a problem and you were in over your head. She said, "I would just open up the yellow pages and look and find a neurologist or whatever to refer my patient to. I happen to know, as you do, that there is a big difference in each community as to which the good providers are and which the bad ones are. I think you would want to make sure if the referral was made it was made because you knew that was the best neurologist or whatever to meet your needs. From a patients point of view, I think it is only fair and reasonable to make that disclaimer known so that if you go to nurse in advanced practice you might notice the difference and say, (a) "If I need you 4th of July weekend, are you going to be there for me and if not, who will be?" (b) "If there is an emergency, can I get into the hospital immediately? (c) Are you going to have good ideas about who to refer me to if I have needs that you can't meet? Thank you very much. I just wanted to explain my voting pattern. I am very supportive of the bill. It is just that the devil is in the detail. Again, I don't want any

family to go through what my family went through a few years ago. Thank you.

Representative PENDLETON of Scarborough requested a roll call on adoption of House Amendment "A" (H-618) to Committee Amendment "A" (S-279).

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. 245

YEA - Adams, Aikman, Ault, Bailey, Birney, Carleton, Chartrand, Chick, Clark, Cloutier, Clukey, Cross, Damren, Davidson, Driscoll, Dunn, Gerry, Gould, Guerrette, Hartnett, Hichborn, Jones, S.; Joy, Joyner, LaFountain, Lane, Layton, Libby JD; Libby JL; Lovett, Lumbr, Marshall, Marvin, Meres, Mitchell EH; Mitchell JE; Nass, Ott, Plowman, Povich, Reed, G.; Reed, W.; Richardson, Robichaud, Rosebush, Savage, Saxl, J.; Saxl, M.; Stedman, Stone, Strout, Underwood, Waterhouse, Winglass, Winn, Winsor.

NAY - Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, Campbell, Chase, Chizmar, Daggett, Desmond, Donnelly, Dore, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gooley, Green, Johnson, Jones, K.; Joseph, Joyce, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, Lemaire, Lemont, Lindahl, Look, Madore, Martin, Mayo, McAlevy, Murphy, Nadeau, Nickerson, O'Gara, O'Neal, Paul, Peavey, Pendleton, Perkins, Pinkham, Rice, Ricker, Rowe, Samson, Shiah, Simoneau, Sirois, Spear, Taylor, Thompson, Townsend, Treat, Tripp, True, Truman, Tufts, Tuttle, Tyler, Volenik, Watson, Wheeler, Whitcomb, The Speaker.

ABSENT - Barth, Bigl, Buck, Dexter, DiPietro, Greenlaw, Hatch, Heesch, Heino, Jacques, Keane, Lemke, Luther, McElroy, Morrison, Poirier, Poulin, Pouliot, Rotondi, Stevens, Vigue, Yackobitz.

Yes, 56; No, 73; Absent, 22; Excused, 0.

56 having voted in the affirmative and 73 voted in the negative, with 22 being absent, House Amendment "A" (H-618) to Committee Amendment "A" (S-279) was not adopted.

Subsequently, Committee Amendment "A" (S-279) was adopted.

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

On motion of Representative ROWE of Portland, the House reconsidered its action whereby Committee Amendment "A" (S-279) was adopted.

Senate Amendment "A" (S-304) to Committee Amendment "A" (S-279) was read by the Clerk and adopted.

Committee Amendment "A" (S-279) as amended by Senate Amendment "A" (S-304) thereto was adopted.

Representative WATERHOUSE of Oxford moved that the Bill and all accompanying papers be indefinitely postponed.

Representative ROWE of Portland 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.

ROLL CALL NO. 246

YEA - Aikman, Ault, Bailey, Birney, Carleton, Chick, Clukey, Cross, Damren, Donnelly, Driscoll, Dunn, Gamache, Guerrette, Jones, S.; Joy, Joyce, Joyner, Lane, Libby JL; Lindahl, Look, Lumbr, Meres, Nickerson, Plowman, Reed, G.; Reed, W.; Robichaud, Savage, Saxl, J.; Simoneau, Stedman, Tufts, Underwood, Waterhouse, Winglass, Winn, Winsor.

NAY - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, Campbell, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, Dore, Etnier, Farnum, Fisher, Fitzpatrick, Gates, Gerry, Gieringer, Gooley, Gould, Green, Hartnett, Hichborn, Johnson, Jones, K.; Joseph, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Layton, Lemaire, Lemont, Libby JD; Lovett, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, Mitchell EH; Mitchell JE; Murphy, Nadeau, Nass, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Povich, Rice, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, M.; Shiah, Sirois, Spear, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Truman, Tuttle, Tyler, Volenik, Watson, Wheeler, Whitcomb, The Speaker.

ABSENT - Barth, Bigl, Buck, Dexter, DiPietro, Greenlaw, Hatch, Heeschen, Heino, Jacques, Keane, Kerr, Lemke, Luther, McElroy, Morrison, Poirier, Poulin, Pouliot, Rotondi, Stevens, Vigue, Yackobitz.

Yes, 39; No, 89; Absent, 23; Excused, 0.

39 having voted in the affirmative and 89 voted in the negative, with 23 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-279) as amended by Senate Amendment "A" (S-304) thereto in concurrence.

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

SENATE PAPERS

The following Communication: (H.C. 231)

Maine State Senate

State House Station 3

Augusta, Maine 04333

June 26, 1995

The Honorable Joseph W. Mayo

Clerk of the House

State House Station 2

Augusta, Maine 04333

Dear Clerk Mayo:

Please be advised that the Senate today Adhered to its former action whereby it Accepted the Majority Ought Not to Pass Report from the Committee on Utilities and Energy on Bill "An Act Regarding Cable Television" (H.P. 831) (L.D. 1162).

Sincerely,

S/May M. Ross

Secretary of the Senate

Was read and ordered placed on file.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-616) on Bill "An Act to Establish a Statute of Limitations for Claims against the Dalkon Shield Claimants Trust" (H.P. 983) (L.D. 1391)

Signed:

Senator: MILLS of Somerset

Representatives: TREAT of Gardiner

JONES of Bar Harbor

LaFOUNTAIN of Biddeford

WATSON of Farmingdale

MADORE of Augusta

LEMKE of Westbrook

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

Signed:

Senators: PENDEXTER of Cumberland

FAIRCLOTH of Penobscot

Representatives:

Plowman of Hampden

HARTNETT of Freeport

NASS of Acton

RICHARDSON of Portland

Was read.

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

On further motion of the same Representative, tabled pending her motion to accept the Majority "Ought to Pass" as amended Report and specially assigned for Tuesday, June 27, 1995.

BILL HELD

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

- In House passed to be engrossed as amended by Committee Amendment "A" (H-477) as amended by House Amendment "A" (H-614).

HELD at the Request of Representative TRUE of Fryeburg

On motion of Representative TRUE of Fryeburg the House reconsidered its action whereby L.D. 1514 was passed to be engrossed as amended.

On motion of Representative MITCHELL of Vassalboro, tabled pending passage to be engrossed as amended and specially assigned for Tuesday, June 27, 1995.

On motion of Representative WHITCOMB of Waldo the House adjourned at 10:25 p.m., until 9:00 a.m., Tuesday, June 27, 1995.