

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Seventeenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME VI**

**SECOND REGULAR SESSION**

**House of Representatives**  
January 3, 1996 to April 3, 1996

**Senate**  
January 3, 1996 to March 13, 1996

ONE HUNDRED AND SEVENTEENTH MAINE LEGISLATURE  
SECOND REGULAR SESSION  
29th Legislative Day  
Friday, March 22, 1996

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

Prayer by Reverend Karla J. Frost, Elm Street Congregational Church, Bucksport.

National Anthem by Mount View High School Chamber Singers, Thorndike.

The Journal of yesterday was read and approved.

At this point, the Speaker appointed Representative NADEAU of Saco to serve as Speaker Pro Tem.

SENATE PAPERS

**Ought to Pass as Amended**

Report of the Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-496) on Bill "An Act to Provide a Contingent Allocation to Establish a Federally Funded Military Rebuild Site to be Operated by the Maine National Guard at the former Loring Air Force Base" (EMERGENCY) (S.P. 716) (L.D. 1817)(Governor's Bill)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-496).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-496) was read by the Clerk and adopted and the Bill assigned for second reading Monday, March 25, 1996.

**Ought to Pass as Amended**

Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-495) on Bill "An Act Regarding Survivor Benefits in the Event of Divorce and Remarriage" (S.P. 723) (L.D. 1825)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-495) as amended by Senate Amendment "A" (S-503) thereto.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-495) was read by the Clerk. Senate Amendment "A" (S-503) to Committee Amendment "A" (S-495) was read by the Clerk and adopted. Committee Amendment "A" (S-495) as amended by Senate Amendment "A" (S-503) thereto adopted and the Bill assigned for second reading Monday, March 25, 1996.

**Divided Report**

Majority Report of the Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-493) on Bill "An Act to Clarify Certain Provisions Relating to Workers' Compensation Self-insurance" (EMERGENCY) (S.P. 635) (L.D. 1643)

Signed:

Senators: ABROMSON of Cumberland

SMALL of Sagadahoc

Representatives: SAXL of Portland

MAYO of Bath

JONES of Pittsfield  
VIGUE of Winslow  
CAMPBELL of Holden  
CHASE of China  
LUMBRA of Bangor  
THOMPSON of Naples

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

Signed:

Senator: McCORMICK of Kennebec

Representative: GATES of Rockport

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-493)

Was read.

On motion of Representative VIGUE of Winslow, the House accepted the Majority "Ought to Pass" as amended Report.

The Bill was read once. Committee Amendment "A" (S-493) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, March 25, 1996.

**Non-Concurrent Matter**

Bill "An Act to Place Limited Rules on the Use of Personal Watercraft on Waters of the State" (H.P. 1365) (L.D. 1874) which was referred to the Committee on Inland Fisheries and Wildlife in the House on March 21, 1996.

Came from the Senate with the Bill indefinitely postponed in non-concurrence.

Representative JACQUES of Waterville moved that the House Insist.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: This is the only piece of legislation we would have had before us this session dealing with personal watercraft. It is a very modest proposal that was put forth by the Great Ponds Task Force, their subcommittee and the entire task force. It has the support of Maine Wardens' Service. There were four modest proposals in there. The feeling is it was inappropriate because we didn't have the time to have a full public hearing. The State Planning Office has a mailing list of over 350 people who have participated in this issue all this past year that would have been notified. The reporters told us they would put it in the paper this weekend. We could have had a hearing on Tuesday. They tell me the sales of these critters are going through the roof. Those of you who live in areas where you have lakes, ponds, rivers and streams where these will be used will receive more than your share of complaints this summer. It had been our humble hope through the executive's bill that we could probably put a few restrictions in there and maybe save a life or two or bring a few of these factors to people's attention. I think we still have the time and responsibility to do this.

As you all know, there will probably be one or two bills that will pop up in the next five or six days that will go through here very quickly and will not have a public hearing. It will have a lot less impact on people's lives than this one here. That is why I think it is important that we insist that this bill be sent to that committee because we will have

the time next week because, believe me, based on 18 years of service here, we have days and hours where we will be spending waiting for printing to get done and clearly matters as serious as this, we could have worked on it. I hope you all support me in the motion to insist.

Representative GREENLAW of Standish moved that the House Recede and Concur.

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

Representative JACQUES of Waterville requested a roll call on the motion that the House Recede and Concur.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lebanon, Representative Chick.

Representative CHICK: Mr. Speaker, Ladies and Gentlemen of the House: I have mentioned this previously that people have contacted me, in my area. There are many summer residents on the lakes and ponds. They have told me they live in constant fear from the speed of these watercraft. They think about it regarding their children and grandchildren that are in the lakes swimming. I would ask that you really consider what speed does, not only on the highways, but also on our bodies of water here in the State of Maine. Thank you.

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 Recede and Concur. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 325

YEA - Bailey, Buck, Campbell, Clukey, Damren, Greenlaw, Hartnett, Jones, S.; Labrecque, Layton, Lovett, Lumbr, Nadeau, Perkins, Pinkham, Poulin, Robichaud, Savage, Stedman, Whitcomb.

NAY - Adams, Ahearne, Ault, Barth, Benedikt, Berry, Bigl, Birney, Bouffard, Brennan, Carleton, Carr, Chartrand, Chick, Chizmar, Clark, Cloutier, Cross, Daggett, Davidson, Desmond, Dexter, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Hatch, Heeschen, Heino, Hichborn, Jacques, Johnson, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, LaFountain, Lemaire, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Look, Luther, Madore, Marshall, Martin, Marvin, Mayo, McAleve, Meres, Mitchell JE; Morrison, Nass, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Poirier, Pouliot, Povich, Reed, G.; Reed, W.; Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Tripp, True, Tufts, Tuttle, Tyler, Underwood, Vigue, Volenik, Waterhouse, Watson, Wheeler, Winglass, Winn.

ABSENT - Aikman, Bunker, Cameron, Chase, Donnelly, Dunn, Fitzpatrick, Guerrette, Jones, K.; Joseph, Joy, Joyce, Lane, McElroy, Mitchell EH; Murphy, Nickerson, Plowman, Rice, Spear, Treat, Truman, Winsor, The Speaker.

Yes, 20; No, 107; Absent, 24; Excused, 0.

20 having voted in the affirmative and 107 voted in the negative, with 24 being absent, the motion to Recede and Concur was not accepted.

Subsequently, the House voted to Insist.

#### COMMUNICATIONS

The following Communication: (H.C. 386)

#### STATE OF MAINE

#### ONE HUNDRED AND SEVENTEENTH LEGISLATURE COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS

March 21, 1996

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

Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

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

- |           |   |
|-----------|---|
| L.D. 688  | An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 to Provide Funding for the Public Access to Maine Waters Fund  |
| L.D. 1575 | An Act to Authorize a General Fund Bond Issue in the Amount of \$3,000,000 to Encourage Agricultural Enterprises in Maine                 |
| L.D. 1664 | RESOLUTION, Proposing an Amendment to the Constitution of Maine to Prohibit the Use of Funds Raised for Bond Issues for Any Other Purpose |

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

Sincerely,

S/Sen. Dana C. Hanley S/Rep. George J. Kerr  
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 387)

#### STATE OF MAINE

#### ONE HUNDRED AND SEVENTEENTH LEGISLATURE COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT

March 21, 1996

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

Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Business and Economic Development has voted unanimously to report the following bill out "Ought Not to Pass":

- |           |  |
|-----------|--|
| L.D. 1746 | An Act to Encourage High-quality Maine Jobs through a 21st-century Maine Program |
|-----------|--|

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Philip Harriman S/Rep. G. Steven Rowe

Senate Chair                      House Chair  
Was read and ordered placed on file.

The following Communication: (H.C. 388)

**STATE OF MAINE  
ONE HUNDRED AND SEVENTEENTH LEGISLATURE  
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

March 21, 1996

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

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Legal and Veterans Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1827                      An Act to Seek Congressional

Term Limits

Sincerely,

S/Sen. Norman K. Ferguson, Jr.

Senate Chair

S/Rep. Harry G. True

House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 389)

**STATE OF MAINE  
ONE HUNDRED AND SEVENTEENTH LEGISLATURE  
COMMITTEE ON TRANSPORTATION**

March 21, 1996

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

Dear President Butland and Speaker Gwadosky:

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

L.D. 1836                      An Act Requiring Qualified  
Investigation of Certain  
Truck-related and Bus-related  
Fatalities

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Albert G. Stevens, Jr.

Senate Chair

S/Rep. Donald A. Strout

House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 390)

**MAINE STATE LEGISLATURE  
AUGUSTA, MAINE 04333**

March 21, 1996

The Honorable Jeffrey H. Butland  
President, Maine Senate

The Honorable Dan A. Gwadosky

Speaker of the House

Dear President Butland and Speaker Gwadosky:

Pursuant to Resolves 1993, chapter 72, I am pleased to submit the final report by the Commission to Study Biotechnology and Genetic Engineering.

Sincerely,  
S/Beverly Daggett, Chair  
Commission to Study Biotechnology  
and Genetic Engineering

Was read and with accompanying report ordered placed on file.

**ORDERS**

On motion of Representative ETNIER of Harpswell, the following Joint Resolution: (H.P. 1367) (Cosponsored by Representative MAYO of Bath, Senator SMALL of Sagadahoc and Representatives: AHEARNE of Madawaska, BENEDIKT of Brunswick, BIGL of Bucksport, CAMPBELL of Holden, CARLETON of Wells, CARR of Hermon, CLOUTIER of South Portland, DAVIDSON of Brunswick, DRISCOLL of Calais, GWADOSKY of Fairfield, HARTNETT of Freeport, JACQUES of Waterville, JOY of Crystal, LAYTON of Cherryfield, LIBBY of Buxton, LINDAHL of Northport, McALEVEY of Waterboro, MITCHELL of Portland, PENDLETON of Scarborough, PINKHAM of Lamoine, POIRIER of Saco, POVICH of Ellsworth, REED of Dexter, RICE of South Bristol, RICHARD of Madison, ROSEBUSH of East Millinocket, SPEAR of Nobleboro, TAYLOR of Cumberland, TRIPP of Topsham, TUFTS of Stockton Springs, TYLER of Windham, VOLENIK of Sedgwick, Senators: ABROMSON of Cumberland, CASSIDY of Washington, GOLDTHWAIT of Hancock, HARRIMAN of Cumberland, KIEFFER of Aroostook, PINGREE of Knox) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

**JOINT RESOLUTION MEMORIALIZING THE SECRETARY OF THE  
NAVY TO RETAIN THE SEARCH AND RESCUE TEAM  
HELICOPTERS PRESENTLY STATIONED AT THE BRUNSWICK  
NAVAL AIR STATION**

WE, your Memorialists, the Members of the One Hundred and Seventeenth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the Secretary of the Navy, as follows:

**WHEREAS**, the United States Navy has proposed to remove the Search and Rescue Team from the Brunswick Naval Air Station in a cost-cutting move; and

**WHEREAS**, this 2-helicopter Search and Rescue Team is the only unit of its kind for the 7,200 miles of Maine coastline and for the northern New England seaboard, and the next nearest unit is based on Cape Cod, Massachusetts; and

**WHEREAS**, the Search and Rescue Team is considered one of the most effective means in the State for saving lives and has responded in the last 10 years to more than 100 emergency calls for both civilians and United States Navy personnel; and

**WHEREAS**, recently, volunteers among a variety of private and public groups raised \$16,000 to outfit one of the helicopters with a special night searchlight, creating a unique partnership between the citizens of the State of Maine and the United States Navy; and

**WHEREAS**, the loss of this team puts the lives of Maine citizens and the personnel of the United States Navy stationed in Maine at risk, as the survival time in the waters of the Gulf of Maine is limited; now, therefore, be it

**RESOLVED:** That We, your Memorialists, respectfully recommend and urge the Secretary of the Navy to reconsider the plan to cut costs at the risk of human life and to keep the Search and Rescue Team in place; and be it further

**RESOLVED:** That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Secretary of the Navy and to each Member of the Maine Congressional Delegation.

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

**Representative ETNIER:** Mr. Speaker, Ladies and Gentlemen of the House: I will be brief, believe it or not, very brief. You can read through the whereases, if you choose. I would recommend it. I think they are very well done by the Revisor's Office. I would like to thank the Legislative Council for allowing this Joint Resolution to come forward. I would like to thank the cosponsors who were willing to cosponsor and take the time to track the bill down.

I want to just read very briefly a couple things from the flight log of the rescue helicopter at the Brunswick Naval Air Station. I have approximately four years worth. There are approximately 50 missions and 124 hours flown in that time span, which I have with me, from 1991 to 1995. I will just read a handful of them. I want to stress to you that by doing this, the statewide importance of this search and rescue team. I will read the incident and then the results of the incident.

"Diabetic hunter missing in Greenville near the Forks. A combination of Maine Game Warden and Brunswick Naval Air Station helicopter found victim. Ambulance carried to hospital. Skier at Sugarloaf lost off trail. Helicopter launched, found victim, sent ski patrol to survivor. Reported man overboard. Helicopter found victim and transported to nearby hospital. Incapacitated 13-year-old hiker. Patient medevaced to Maine Medical Hospital. Patient experiencing the bends. Patient medevaced to Sanford Chamber. Gouldsboro area, two lost boys. Helicopter found and rescued boys. Boat overdue with one male missing. Helicopter found and rescued boater. Boat being crushed by ice. Helicopter rescued one man. Sixteen-year-old female in respiratory distress in Blue Mountain. Helicopter medevaced patient to hospital. Seventy-year-old male lost in woods near Flag Staff Lake. Helicopter found and rescued survivor. Seventy-one-year-old male diabetic lost in woods. Helicopter found and rescued patient. Cessna 172 crash with four on board. Four people rescued by helicopter."

I read those to you just to stress the statewide, coast, inland importance of this helicopter service. We have a very good group working on this now actively from the Governor's Office to our Congressional Representatives to the Maine Warden Service to the Department of Marine Resources. If we fail to retain these helicopters, we will be working on finding alternatives. I appreciate all the help that you folks have offered. I just want to end with a quote to stress the commercial fishing aspect of the value of this operation to my area and to the state as well.

From Charlie Saunders, he is the President of the Maine's Fishermen Cooperative Association. As Charlie puts it very simply, "Cold kills." In Maine with the temperature of our waters, we cannot survive with a helicopter rescue team that is placed in Cape Cod. We need to have at least one located in the state. Thank you for your support.

Was read and adopted and sent up for concurrence.

On motion of Representative HICHBORN of Lagrange, the following Order: (H.O. 48)

**ORDERED,** that Representative Charles H. Heino of Boothbay be excused March 19 and 20 for personal reasons.

**AND BE IT FURTHER ORDERED,** that Representative Michael J. McAlevy of Waterboro be excused March 13 for legislative business.

**AND BE IT FURTHER ORDERED,** that Representative G. Steven Rowe of Portland be excused March 7 for personal reasons.

**AND BE IT FURTHER ORDERED,** that Representative Elizabeth Townsend of Portland be excused March 20 for personal reasons.

**AND BE IT FURTHER ORDERED,** that Representative John H. Underwood of Oxford be excused March 11 and 12 for health reasons.

Was read and passed.

The **SPEAKER PRO TEM:** The Chair recognizes the Representative from Rumford, Representative Cameron, who wishes to speak on the record.

**Representative CAMERON:** Mr. Speaker, Men and Women of the House: In reference to Roll Call number 325, I was not recorded and were I present and voting I would have preferred to be recorded as Nay. Thank you.

#### **SPECIAL SENTIMENT CALENDAR**

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

In Memory of:

Rodney V. Bowers, of Sherman Mills, a member of the Maine House of Representatives during the 115th Legislature, who passed away March 19, 1996. Mr. Bowers was a dedicated husband, father, grandfather and was a true friend to every person he met. He will long be remembered by all who knew him; (HLS 1042) by Representative JOY of Crystal. (Cosponsors: Senator MICHAUD of Penobscot, Representative CLARK of Millinocket, Representative AIKMAN of Poland)

On objection of Representative CARLETON of Wells was removed from the Special Sentiment Calendar.

On further motion of the same Representative, tabled pending adoption and specially assigned for Monday, March 25, 1996.

#### **REPORTS OF COMMITTEES**

##### **Ought to Pass as Amended**

Representative TREAT from the Committee on Judiciary on Resolve, to Require the Study of the Medical Liability Prelitigation Screening Panels (H.P. 1257) (L.D. 1729) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-821)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-821) was read by the Clerk and adopted and the Bill assigned for second reading Monday, March 25, 1996.

##### **Ought to Pass Pursuant to Private and Special Law**

Representative MITCHELL from the Committee on Human Resources on Bill "An Act Regarding the Food Stamp and Low-Income Home Energy Assistance Program" (EMERGENCY) (H.P. 1366) (L.D. 1875) reporting "Ought to Pass" Pursuant to Private and Special Law 1995, chapter 51.

Report was read and accepted. The Bill read once and assigned for second reading Monday, March 25, 1996.

#### Divided Report

Majority Report of the Committee on Appropriations and Financial Affairs reporting "Ought to Pass" on Bill "An Act to Clarify the Distribution of Funding for the Maine School of Science and Mathematics" (EMERGENCY) (H.P. 1255) (L.D. 1724)

Signed:

Senators:

BEGLEY of Lincoln

HANLEY of Oxford

Representatives:

SIMONEAU of Thomaston

DONNELLY of Presque Isle

AIKMAN of Poland

OTT of York

TOWNSEND of Portland

DIPIETRO of South Portland

POULIOT of Lewiston

KERR of Old Orchard Beach

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

Signed:

Senator:

BERUBE of Androscoggin

Representatives:

MORRISON of Bangor

JOSEPH of Waterville

Was read.

On motion of Representative KERR of Old Orchard Beach, tabled pending acceptance of either Report and specially assigned for Monday, March 25, 1996.

#### CONSENT CALENDAR

##### First Day

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

(S.P. 735) (L.D. 1844) Bill "An Act Authorizing County Commissioners to Enact Ordinances Concerning Addressing Standards for Enhanced 9-1-1 Services in the Unorganized Territories" (EMERGENCY) Committee on State and Local Government reporting "Ought to Pass"

(H.P. 1177) (L.D. 1609) Bill "An Act to Provide a Retirement Benefit Option for Forest Rangers Equal to That Option Available to Game Wardens and Marine Patrol Officers" (EMERGENCY) Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-817)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, March 25, 1996 under the listing of Second Day.

#### BILLS IN THE SECOND READING

##### As Amended

Bill "An Act to Implement the Recommendations of the Task Force on Tax Increment Financing" (H.P. 1313) (L.D. 1797) (C. "A" H-808)

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 Speaker resumed the Chair.

The House was called to order by the Speaker.

#### UNFINISHED BUSINESS

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

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

HOUSE ORDER - Relative to amending House Rules 1 and 19 (H.O. 47)

- In House, Read on March 20, 1996.

TABLED - March 20, 1996 by Representative REED of Falmouth.

PENDING - Passage. (2/3 Vote Required)

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

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: Just so that you will know what this matter is, it is part of the work of the rules subcommittee of the TQM Committee. These are two, I think, relatively minor changes, which take two items from our existing Joint Rules and move them to Chamber Rules. They are the items dealing with the duration of roll calls and the duration of the period in which the presiding officer has to respond to inquiries. It seemed appropriate to the Rules Committee that since those have to do with the business of a Chamber, that they should more appropriately be in Chamber Rules. I hope you will support the order. Thank you.

A vote of the House was taken. 78 voted in favor of the same and 0 against, a two thirds vote of members present being necessary, the House Order received passage.

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

SENATE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (4) "Ought to Pass" - Committee on Natural Resources on Bill "An Act to Grandfather Municipal Ordinances Regulating the Spreading of Sludge" (S.P. 705) (L.D. 1804)

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

TABLED - March 21, 1996 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Acceptance of the Minority "Ought to Pass" Report.

Representative SAXL of Portland moved that the Bill and all accompanying papers be indefinitely postponed.

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

Representative SAXL: Mr. Speaker, Men and Women of the House: Notwithstanding the excellent joke material that is a result of this bill. This piece of legislation as I have become more familiar with it is exactly about unleveling a level playing field. L.D. 1804 exempts certain municipalities from the rules and responsibilities that every other

municipality in this state has to live by. This isn't about whether we like sludge or dislike sludge or about how funny a joke Representative Gould can tell. This is about exempting certain municipalities from the responsibilities other municipalities in this state have to assume. I urge you to support the motion to indefinitely postpone. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lebanon, Representative Chick.

Representative CHICK: Mr. Speaker, Ladies and Gentlemen of the House: This morning, as we gather here to consider many items, this one item, for people that I represent and others, is only asking not to unlevel a playing field. This request would be the consideration of a coexistence. It would allow for people that live in a municipality where the municipal officers would receive a document that I have here. This one was applicable to a request in the Town of Lebanon and it was sent from Wheelabrator Clean Water Systems, those people that would handle the spreading of sludge from the Portland Water District. In it describes the sites that gives explanations about the land on the sites. It talks to the content. It talks to the prohibitions that must be used if the spreading is to take place. However, when this document comes to the municipality it is an order that this spreading will take place, when the material will arrive and what routes it will use.

There is no provision in here for a person or persons that are abutters to have any say about this action. There are towns that prior to 1989 had the foresight of problems that deal with the environment to enact town ordinances. These ordinances would provide, in this case, from these towns to be able to discuss, in this case, with, if it was this document, Wheelabrator on the regulations. In other words, it would allow those towns to sit down and discuss the contents. From my experience, over time the look that the town would get to this problem would show up some items that are not contained in it. In other words, analysis of the materials. I will emphasize that I am familiar with people that make application for materials from these water districts.

I, myself, about 10 years ago, made application for some of this material. I might as well say the source was the Kennebunk Water District. My recollection is that after my request got to the district there was a person that came to my farm and in exchange of what we have done in our careers, he indicated that his career was spent at the University of New Hampshire in Durham. He had been involved with agriculture.

On his retirement, he was seeking some employment and he chose to take employment with the Kennebunk Water District. We visited the plots that I was considering using the material on two farms. He was quite intent on explaining all of the value that I was going to receive from this. There was very little mention made and I didn't ask about the content. There was very little mention made about the content or the analysis.

After his visit, probably three weeks later, the environmental board from Lebanon came to my home, unannounced, I believe it was on a Saturday afternoon, pleasant day in the fall of the year and asked me if they would be permitted to look at the situation that I had applied for in the spreading of sludge. I indicated that I would be pleased to go with them and look at the sites. During this visit,

they didn't talk about much but the slopes of the land and asking what each site would be used for, such as grazing or raising hay or crops. However, they did point out to me about the material that was going to be sent there from Kennebunk and the analysis. When they described what was contained and having some background in the terms that were applicable to the evaluation of this material, I decided right there that I wished to cancel my request for the spreading of this material.

This bill would allow people, the boards of selectmen, environmental boards, if there is one in the town, to sit and talk on the regulations. In other words, look beyond what is printed in this brochure. This one here was for Lebanon for last year. There were three sites involved. Of course, I refer to this when we spoke about this on the first reading that since then two or three people mentioned to me about some of the prohibitions on time. I realize that sitting here listening to much testimony about many bills, those people most interested would remember or know about them.

I will read the waiting periods stated in this document. Do not graze animals on the land for thirty days after the application. Let me just for a moment speak about 30 days on grazing. Think about the weather last summer and the lack of rainfall. People that have need for grazing for their cattle and I own cattle. They would look at this and if they would want to play a little brinkmanship, they would say they have gone by the 30 days because there has been no rain. They would put their cattle out to graze where this material still would exist in the form that it was spread.

To go on, food crops harvested with parts below the surface of the land shall not be harvested for 24 months after the application. Sod, to be used for lawns, golf courses and educational facilities are not to be used for 12 months after the application.

This, without taking a lot of time, I believe, points to a need to consider the request of these towns that have an ordinance prior to 1989. I would ask, sincerely this morning that you defeat this motion to indefinitely postpone with all of the attending papers. Thank you.

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

Representative POVICH: Mr. Speaker, Men and Women of the House: Small towns can't compete with big cities. In Ellsworth, we recently made a decision to compost our sludge and not send it away. There were two reasons. A. Disposal costs were high. B. There is a lot of money to be made from the compost. We don't want to be told to take our neighbor's sludge. We would like to have a say so in this decision. My message to big towns is, please take care of it yourself and there is money to be made in it. I urge you to vote no on the pending motion to indefinitely postpone. Thank you.

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

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: There are certain issues that are issues that transcend municipalities statewide. That is why in 1989, we passed the Gross Management Act that would take care of situations all over the state. We said that you could not pass in certain instances an ordinance that is more strict than what the state law is. Does that mean that you can't pass an ordinance, which is more strict than



what the state law is? There is no scientific evidence in back of what the state law says. Of course not. If you look at the state regulations on this, there are about 24 pages dealing with this. Does that mean that we have each and every answer to all of the questions involved? Of course not, but we do have the best scientific evidence that we can have available to us today.

It has been pointed out to you that you are not supposed to do certain things after a certain number of days. If you go into a hardware store and buy poison, you read that if you spray it on certain plants that you should not eat those plants for a certain number of days. That doesn't mean that you don't use it. It just simply means that in the best interest and the best science, you should not use it for that period of time.

The second point that I would like to make to you is that we should not have different municipalities playing by different rules. We have a certain number of municipalities, a small number, that would be playing by different rules than the other 420 some odd municipalities. Those small number of municipalities still produce the material that is in question. To me, we should have every municipality playing by the same rules and keep the playing field level as it is today. I urge you to support the motion of indefinite postponement.

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

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

The SPEAKER: The Representative may pose his question.

Representative BAILEY: Thank you. Could somebody tell me how many towns this affects and of those towns that it would affect, do they have ordinances in place that are stricter than the state standards or more lenient than the state standards?

The SPEAKER: The Representative from Township 27, Representative Bailey has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Mr. Speaker, Men and Women of the House: To the best of my recollection there are six towns that have these ordinances that fall under this. It may be up as high as 12, but I believe it is six. From what I have been told, yes, they do have stricter ordinances than what the state ordinance would allow.

The SPEAKER: The Chair recognizes the Representative from Lebanon, Representative Chick.

Representative CHICK: Mr. Speaker, Ladies and Gentlemen of the House: Terms here used to the degree of strict or stricter whatever, the intent of this bill would be to have an ordinance that would allow a town to, I repeat again, look at the material with whomever the contractor is and by the admission of the representative from the Natural Resources Committee on the size of the document and the Department of Environmental Protection, the volumes that certainly there are going to be escapes of falling through some of the regulations. The intent is to allow a town to make sure that some of the items overlooked are dealt with.

In this document that was presented to the Lebanon, I could show you some things that were inconsistent with the statement about the validity

and completeness of the entire report. For this reason, we need this bill to allow us to look and to prevent oversight and have a town subjected or put down by legislative authority. Thank you.

The SPEAKER: The Chair recognizes the Representative from Norridgewock, Representative Meres.

Representative MERES: Mr. Speaker, Ladies and Gentlemen of the House: I would like to explain to you the facts and our discussions during our work sessions and public hearings. We talked to several towns and communities, not just the ones affected. There are many communities that have concerns. They are concerned about whether their ordinances will hold up. They are concerned about how to readdress their ordinances to make them more effective. We heard from a community where they had to discuss different jurisdictions, which overlap regarding the solid waste and sludge. The bottom line to all of this was the fact that, yes, the state does have a management plan which does say that in solid-waste issues communities cannot have ordinances which are more strict.

The ordinances in question, the ones to be grandfathered have all been determined to be more strict than the state. My sense is that if there are concerns regarding the fairness or the effectiveness of the 13/10 as it stands now, we ought to look at the whole issue so that all communities are treated equally. The communities that are having difficulties now, who feel that they want to have more definition to make sure that their ordinances that they are working on now are effective, should be treated as seriously as the towns who have old ordinances prior to 1989 that they want to fall back on. I am supporting the indefinite postponement simply because I feel this issue is broader than a few towns and it is the responsibility of this Legislature to look at the total issue for all communities so that we can all have the same ability to work and protect the things that are important to our communities. Thank you.

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

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

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

The Chair recognizes the Representative from Wilton, Representative Heesch.

Representative HEESCH: Mr. Speaker, Men and Women of the House: I urge defeat of the pending motion. I think that by refusing to grandfather a few towns in the state, we are prepared to throw the baby out with the bath water. There has been an implication that towns who have ordinances that may be stricter than the state may be selfish in that they are not actually dealing with their own waste. I believe my town is one town that is affected by this. We do have a sludge ordinance that predates 1987, which is when the current town manager came on board. It has also been amended recently, actually to require composting, which includes the composting of our own sludge from our waste-treatment plant. To

the extent that we will no longer be able to maintain that and we have done everything in accordance with state law prior to this time, while there are a lot of other towns that are prepared to accept sludge, why are we forcing it on a few who have worked out carefully drafted ordinances? I do urge you to defeat the pending motion.

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

ROLL CALL NO. 326

YE - Ahearne, Aikman, Ault, Bouffard, Brennan, Chase, Cloutier, Damren, Dexter, Dore, Fitzpatrick, Gamache, Gates, Gould, Hartnett, Heino, Jacques, Johnson, Joseph, Joyce, Kneeland, Labrecque, LaFountain, Lemaire, Marvin, Mayo, Mitchell JE; Morrison, Nadeau, Peavey, Perkins, Poirier, Poulin, Pouliot, Richardson, Ricker, Robichaud, Rosebush, Rowe, Saxl, J.; Saxl, M.; Sirois, Stone, Taylor, Thompson, Townsend, Waterhouse, Whitcomb, Winglass.

NAY - Adams, Bailey, Barth, Benedikt, Berry, Bigl, Buck, Cameron, Campbell, Carleton, Carr, Chick, Chizmar, Clukey, Cross, Daggett, Davidson, Desmond, Driscoll, Etnier, Farnum, Fisher, Gerry, Gieringer, Goolley, Green, Greenlaw, Guerrette, Hatch, Heeschen, Hichborn, Jones, K.; Jones, S.; Joyner, Keane, Kerr, Kilkelly, Kontos, Lane, Layton, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Luther, Madore, Marshall, Martin, McAlevey, Meres, Nass, O'Gara, O'Neal, Ott, Paul, Pendleton, Pinkham, Povich, Reed, G.; Reed, W.; Rice, Richard, Samson, Savage, Shiah, Simoneau, Spear, Stedman, Stevens, Strout, Treat, Tripp, True, Tufts, Tuttle, Tyler, Underwood, Vigue, Volenik, Watson, Wheeler, Winn, Winsor.

ABSENT - Birney, Bunker, Chartrand, Clark, DiPietro, Donnelly, Dunn, Joy, McElroy, Mitchell EH; Murphy, Nickerson, Plowman, Truman, The Speaker.

Yes, 49; No, 87; Absent, 15; Excused, 0.

49 having voted in the affirmative and 87 voted in the negative, with 15 being absent, the motion to indefinitely postpone the Bill and all accompanying papers was not accepted.

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

The Bill was passed to be engrossed in concurrence.

An Act to Lessen the Penalty for Withdrawal of Farms from the Farm and Open Space Tax Law (H.P. 1295) (L.D. 1777) (C. "A" H-767)

TABLED - March 21, 1996 (Till Later Today) by Representative WHITCOMB of Waldo.

PENDING - Passage to be Enacted.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: I call your attention to the L.D., which is L.D. 1777, dealing with the Open Space Tax Law. This particular piece of legislation is one of six, as I recall, that came from the task force that was put together to take a look on how to preserve the very industry in Maine. When I looked at the bill, it seemed that what the bill does is actually to work in the opposite direction.

Let me, basically, try to make my point and then pose my question. It appears what the bill will do is to allow people to get out of the Open Farm Law

easier, therefore, allowing them to subdivide that much easier. If that is the case, then it works just the reverse of what the task force, in my opinion, probably wanted to do. It would seem to me that the way that you can help the dairy industry is by keeping taxes low. We all could point out that what this does, in part, as you know in the present law, when someone applies and is granted under the Open Space Tax Law, there is a property tax shift within the municipality. The taxes go down on the farmer and then they are picked up by everyone else in town. I don't have any problem with that as long as it serves a useful purpose, but at the end of five or ten years, the farmer decides that they are going to sell. Now, the municipality will be unable to recoup its losses. That is one problem I have.

My second problem is that it works the reverse as it appears to me as where it ought to be going. We ought to be helping the industry to preserve and continue rather than allowing them to withdraw and not pay penalty and therefore, they could make it easier to subdivide and therefore, work the reverse. My question basically is, are my two conclusions correct based on what I have read or is there something that I am missing? I would pose that question to anyone who may choose to respond.

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

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate the concerns that the Representative from Eagle Lake has. He wants to make sure that it is working in the best interest to save dairy farms. I assure you that this bill does do that. It does exactly the opposite of what he thinks it might do. I will give you a little background. We did a survey amongst all the dairy farms in the State of Maine, which is about 560 right now. There were 43 questions. The number one concern that came back, we did have a 36 percent return on this survey, was property taxes. We looked at the issue and we know that the assessors are out there and there is not a lot that you can do to change how the assessing is done. We said to ourselves, there is one program there that, in effect, is the Farm Land and Open Space Program. We looked at the Farm Land Program, it is a good program. We think it does what it is supposed to do.

The problem was that nobody was using it. I say nobody, very few were using it. The reason that we found that very few were using it is because they did not dare to get into it because of the penalties involved. Let me explain the penalties involved. If you had a farm or a parcel of land that was worth \$100,000 and you had to make a decision for the next five years, you were on a little bit shaky grounds and you weren't sure that your farm could survive for another five years and something came along that you had to sell off and get out, the penalty for that is 40 percent of assessed value. That means that the penalty to get out would be \$40,000. Most likely people that are going to have to get out are pretty well in debt anyway and you have to pay \$40,000 penalty. For that reason, it is preventing very few farmers for entering into the program.

What this bill does is reduces that penalty to 20 percent instead of 40 percent for the first five years. Anywhere from five to ten years, the new

penalty is the back taxes, the difference between what they did pay and what these back taxes would have been, plus interest. By the Constitution, that is the minimum penalty taxed. It is the difference of what you paid and what they were assessed, plus interest. We have kept the minimum penalty in there from five to ten years. Those first years, we have reduced it from 40 percent to 20 percent. That is still more than the difference in the back taxes. In other words, towns would not be left without any taxes if anybody chose to get out.

Once again, I believe and I know the intent was just the opposite of what Representative Martin was asking. It isn't to let anybody out easy. It is to encourage more to get in and be able to provide. Thank you.

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

Representative MARTIN: Mr. Speaker, Members of the House: I don't disagree with the purpose. If you have the bill in front of you, look on page 2. It is true that they have to pay back taxes, but the way it is worded, the interest begins only 60 days after the date so that, in effect, you have lost what you might have been able to recoup and you are at the same time also decreasing it from 40 percent to 20 percent.

The provision that bothers me even more than that is the provision which is in six on page 1. In effect, it appears that the assessor can decide that it is no longer a farm and that you are no longer farming. You are going to lose your certification. However, the assessor can only do that every five years. It used to be annually. Every five years, you could go four years, in effect, under that certification. I would just point out that this particular problem is one you are going to face in your municipalities. It is a tax shift. It is one that you have to decide whether or not it is appropriate. That is the problem. I am not sure that that is something that we ought to do in this fashion.

I support giving them, but remember that this is somewhat different than tree growth, because there is under the Constitution a reimbursement plan, which, at least, pays some of that back. For those of you who have a lot of tree growth in your community, you know what occurs with the tax shift of the remaining amount. I don't know how far we want to go. This bill, if I have ever seen a mandate on municipalities, welcome aboard, this is what it is. You may choose to do whatever you want to, but it isn't helping the dairy industry and it is hurting the taxpayers who are not going to participate in the Open Space Tax Law.

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

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: I don't have the paper in front of me. It was before the Taxation Committee. They did a side-by-side on the penalty in the first five years. Even reducing that from 40 to 20 percent, it was still a greater penalty than the tree growth penalty, if you should withdraw. Comparing the two, it was way out of line. We felt that even dropping it back from 40 percent to 20 percent, it was still a greater penalty than if anybody withdrew from a tree growth program. Once again, we felt it was fair and may I stress that this will not go below the minimum penalty that is drawn by our

Constitution. It is for the purpose of encouraging people to get into that program, save our open space in the rural areas of our state and it is not to let anybody out the easy way. Thank you.

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

Representative REED: Mr. Speaker, Men and Women of the House: Briefly, with respect to the concern raised by Representative Martin regarding the five-year recertification. Committee Amendment "A" strikes that from the bill and returns to the annual recertification provision.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I was a lone ranger signing out this bill 12 to 1. I thought I would let this happen and later on this year I am going to do a distribution about existing tax benefits to farmers. When you have a 12-to-1 battle, you often choose not to take it. It doesn't mean that you sign out alone for any reason other than you have opposition. Let me just go through why I was strongly opposed to this, since we are going to, in fact, have a little debate about it.

Current use evaluation for tree growth, farm and open space, we have a constitutional amendment. When this was done, this constitutional amendment, once you went into tree growth, farm or open space in order to get out there was a minimum penalty of five years back taxes, less what was paid. When you go into these categories, you pay a lot less. It was five years back taxes and what would have been the current rate of taxes that everybody else was paying less what you paid at your lower rate, plus there was interest. Interest was a maximum of the state rate of interest. It was tied to the state's rate of interest.

All of this was designed to keep farms, tree growth and open space in that classification for the long term. It was not designed to subsidize farming. It was designed to encourage people not to get out of farming because of high taxes. There is a distinction there that is important to understand. We enacted the system that gradually decreased over time the penalty so that land speculators and developers couldn't put land into one of these classifications for a few years then pull it out with a minimum penalty for the developer at the expense of all other taxpayers. Somebody wouldn't, for instance, buy a farm, claim it as a farm and pay a reduced rate of taxes and find that suddenly that the real estate market was hot, like 1984-86, a lot of farms in southern Maine suddenly became malls. They would have a huge ability to create a profit and say, well, this is a minimum penalty compared to my ability to create a profit. Developers were buying farms and being "farmers" for a few years and then selling off. So, that was why there was a gradual decrease in the penalty over time. That was so that people would hold for the long term.

You need to know part of the reason for my opposition of this is because it is at the expense of all other taxpayers in that town. Towns have a vested interest in some open space, tree growth and farm land. After 20 years, anyone who pulled out would pay the minimum. We were basically encouraging people to make at least a 20-year commitment to keep this as a farm. That was the trade for the long-term view that it was worth it to the rest of the citizens

of the town to subsidize that tax break in order to keep that land as farm land for 20 years.

Five years ago, there was a study of farm land classification. Representative Spear alluded to it. We knew the farmers were not using this land. We adjusted it so that the farmers would only have to wait 10 years to pay the minimum. That happened just five years ago. Unlike everybody else, they are now down to only 10 years. I don't consider 10 years a long-term view. I am a lot older than 10 years. I can recollect the past 10 years pretty quickly and I think most of you can. I don't consider 10 years an overly burdensome long-term view. Well, people who did the study said that is an overly long-term view and we want five years. We have only had the 10 year minimum penalty for five years now. It is very hard to say to somebody, we are going to encourage you to farm, discourage you to develop, but if you want to develop five years from now, you will just have a little slap on the wrist. I don't think that is long-term farm planning.

Reducing it to 10 years didn't work. If reducing it to five years doesn't work, are we going to have a bill in here in next year saying, you know, as long as they want to say they are a farmer until the day they sell out to K-Mart, Wal Mart or CVS for a development, we are going to subsidize their taxes with the taxes of the other people in the town.

Let's remember the original purpose of this program. It was to keep land as farm land. It wasn't to subsidize speculation. You know, it is a funny thing about speculation. It doesn't matter if speculation is by a business person who doesn't get this subsidy now because they have a shorter term view than 10 years or if the speculation is by a farmer who has decided to become a developer. In my community of Auburn, I can name two people who used to be farmers and now they are developers. It would be entirely inappropriate for the rest of the citizens of Auburn to subsidize their farm tax rate, when in the long haul what they did was put in Bolder Drive, Briar and Knowle Estates, Mary Knowle Estates. There is nothing about this that has anything to do with farming. At the point where my community said, you are not farming, you are selling off pieces to develop, off went the tree growth classification and they pay taxes like the rest of us and like the rest of the developers. That seems appropriate and that is why I went out on a 12-to-1 report.

I concur with the Representative from Eagle Lake, Representative Martin that this is no longer about tree growth. It is really too much of a subsidy for people giving them an opportunity to become developers at a very little penalty. If you go into tree growth or farming and you are going in to say that is my long-term commitment and for that the citizens are giving you some of their money in terms of this subsidy. Thank you.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: This is a question that has never been asked, but I find it appropriate to ask at this time as to whether or not this is, in fact, a violation of Joint Rule 22 and, in fact, could be a mandate.

Representative MARTIN of Eagle Lake asked the Chair to rule if this Bill is in violation of Joint Rule 22.

The Bill was tabled pending ruling of the Chair.

Bill "An Act to Allow the Adjutant General to Sell Unfit and Unneeded Property and Apply Proceeds to the Military Bureau's Construction and Capital Repair Account, to Authorize the Adjutant General to Transfer Real Property, and to Authorize the Military Bureau to Retain the Proceeds of Armory Rentals" (S.P. 660) (L.D. 1720)

TABLED - March 20, 1996 by Representative MARTIN of Eagle Lake.

PENDING - Adoption of Committee Amendment "A" (S-489)

Representative TRUE of Fryeburg presented House Amendment "A" (H-823) to Committee Amendment "A" (S-489) which was read by the Clerk.

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

Representative TRUE: Mr. Speaker, Men and Women of the House: All of you should have just been passed the amendment, which we are speaking about. It does straighten out some difficulties which we had and was pointed out by the Representative from Eagle Lake. What this does is actually allows the Department of Defense and Veterans Services Military Bureau to make expenditures from the capital repair account without legislative approval for any capital repair project costing less than \$300,000. The bureau is prohibited from using the account for a capital repair project costing \$300,000 or more unless that expenditure is approved in advance by the Legislature.

This amendment also requires the military bureau to report to the Legislature every two years on planned capital repair projects costing less than \$300,000. This bureau has as many as 16 different armories and so forth to repair. Most of them have problems with their roofs. With this expenditure, we'll be able to get also federal help and hopefully we can get them back to good repair. Thank you Mr. Speaker.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: With all due respect to the prior speaker, the House Amendment "A" was introduced before I even had it on my desk. I would prefer that we table this until I have an opportunity to read it. I move to table this.

The SPEAKER: The Chair is not able to entertain the motion to table because you have debated that motion.

On motion of Representative JACQUES of Waterville, tabled pending adoption of House Amendment "A" (H-823) to Committee Amendment "A" (S-489) and later today assigned.

Resolve, to Require Additional Promotion of the Maine Quality Seal (EMERGENCY) (H.P. 1294) (L.D. 1776)

TABLED - March 21, 1996 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Final Passage.

On motion of Representative SPEAR of Nobleboro, the House reconsidered its action whereby L.D. 1776 was passed to be engrossed.

The same Representative presented House Amendment "A" (H-826) which was read by the clerk and adopted.

The Resolve was passed to be engrossed as amended by House Amendment "A" (H-826) 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 Agriculture, Conservation and Forestry reporting "Ought to Pass" as amended by Committee Amendment "A" (S-504) on Bill "An Act to Clarify and Improve the Governor's Authority to Ban Out-of-door Fires and Restrict Human Activity during Periods of High Fire Danger" (S.P. 665) (L.D. 1725)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-504).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-504) 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-504) in concurrence.

##### Ought to Pass as Amended

Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-494) on Bill "An Act Concerning Technical Changes to the Tax Laws" (EMERGENCY) (S.P. 697) (L.D. 1771)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-494) as amended by Senate Amendment "A" (S-498) thereto.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-494) was read by the Clerk. Senate Amendment "A" (S-498) to Committee Amendment "A" was read by the Clerk.

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

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: The matter embroiled in Senate Amendment "A" was originally introduced in the bill to the committee as a technical change. It was the unanimous opinion of the committee that it was not a technical change, but it was, in fact, an expansion of an exemption and was removed by the committee from the technical changes bill. There is a vehicle for any member to seek an expansion of exemption. It is to put a bill in to do that and to have a public hearing. This concept was removed from the bill by the committee initially. The committee felt it was inappropriate and still feels so and therefore, Mr. Speaker, I must respectfully move that Senate Amendment "A" be indefinitely postponed.

Representative REED of Falmouth moved that Senate Amendment "A" (S-498) to Committee Amendment "A" (S-494) be indefinitely postponed.

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

Representative ETNIER: Mr. Speaker, Men and Women of the House: I would like to speak in opposition to the good Representative's request that you indefinitely postpone Senate Amendment "A." Senate Amendment "A" as he noted originally was included in L.D. 1771, which were technical changes to tax laws. It was cosponsored by a good number of the members of taxation. It was presented in the middle of February. What the Senate Amendment does and what

the original language of the bill does that was taken out by the committee applies to boat builders and boat storage in the State of Maine. Whether it is a substantive or minor amendment is something we could probably debate until dark. I have no intention of doing that. I just think it is a good amendment and I think it is good for Maine businesses. It is good for the boat builders in this state and for those who store boats.

I would like to read if I could, briefly, a couple excerpts from letters from the State Tax Assessor, Mr. Brian Mahany. The letter is dated September 19, 1995, addressed to Senator Goldthwait in relation to this original bill. "I agree that the present law is grossly inequitable to Maine boat dealers who can now sell boats to nonresidents, but cannot provide winter storage without collecting a 6 percent use tax on the value of the boat." He anticipated, at that point, a negligible fiscal note. If you observe the amendment, you will see there is no fiscal note on this amendment.

I would also like to read from his letter of March 12, 1996, again, to Senator Goldthwait from State Tax Assessor, Brian Mahany. "Our proposed language in the Senate Amendment would simply allow Maine boat builders to repair facilities and marinas to temporarily store boats either for the winter or during repairs without subjecting the nonresident owner to a sales tax on the value of the boat. Presently, Maine boat dealers and marinas lose business to out-of-state businesses because of the inability to provide such basic services as winter storage on long-term repair. This amendment only exempts temporary storage. To summarize, this legislation will boost our boat building and marina industries without creating a revenue shortfall and without negatively impacting on Maine residents. The bureau will be happy to address any technical questions you may have on this issue." Again, that is from the state tax assessor.

Substantive or minor, I do not know. I think it is a good amendment. I think it was good language in the bill originally. It was included in the public hearing, of course, that was held on this bill earlier this year. No one, from what I hear, stood up to oppose it at that point in time. I think that the boat building industry and boat storage industry as a state needs this amendment. We have heard from the Marine Trade Association that they definitely support it. I would urge you to oppose the indefinite postponement. Thank you.

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House: I would encourage you to support the Chair of the Committee on Taxation to indefinitely postpone this amendment. This is a substantial change. We did discuss this in length in committee. Once again, I would encourage you to support the Majority of the Taxation Committee on this issue. If this issue is of the substantial nature, as we have heard today, the appropriate way to do that is to sponsor legislation in a separate piece of legislation. Therefore, I would encourage you to support the motion to indefinitely postpone.

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

Representative JONES: Mr. Speaker, Men and Women of the House: I was sent here to help out small businesses and big businesses. I think I have done a

good job at that. We have a lot of boat builders on my island. If they buy a boat in the winter, they have to immediately take that boat out-of-state. I think it is going to hurt sales for these fine boat builders that we have in this state, specifically on my island. I am not sure how you are going to get your boat out of Bass Harbor in the middle of January when it is frozen over. I don't think you can. We are just punishing these companies without this amendment. I would urge you to oppose this indefinite postponement. Thank you.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Mr. Speaker, Men and Women of the House: I am sorry I missed some of this debate because of something else that was taking place. Has the question been answered, is this going to cost the state any money? I ask that question.

The SPEAKER: The Representative from Madison, Representative Richard has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative ETNIER: Thank you Mr. Speaker. In response to the question. Let me just read to you the fiscal note on the amendment. "Expansion of the sales tax exemption on watercraft sold to nonresidents may result in minor reductions of general revenue with minor corresponding reductions of dedicated revenue to the local government fund for state/municipal revenue sharing." That is the fiscal note as attached to the Senate Amendment, which we are debating.

The Chair ordered a division on the motion to indefinitely postpone Senate Amendment "A" (S-498) to Committee Amendment "A" (S-494).

Representative KEANE of Old Town requested a roll call on the motion to indefinitely postpone Senate Amendment "A" (S-498) to Committee Amendment "A" (S-494).

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 Harpswell, Representative Etnier.

Representative ETNIER: Mr. Speaker, Ladies and Gentlemen of the House: Again, I just want to emphasize for those of you who came in late to this show that this a simple amendment that was included in the technical changes bill that the Taxation Committee heard in public hearing a month or so ago. There was no opposition at that point in time. As I quoted earlier, the State Tax Assessor, Brian Mahany, is fully supportive of this amendment that is attempting to be indefinitely postponed at this point.

It is a proactive small business and I guess in some cases large business in terms of boat building. The amendment should be retained. It should not be stripped off. The debate largely centers around whether this was a substantial change and should not have been included in the technical amendment bill. I don't wish to debate that. There is a fine line that one draws. The bottom line for me and for the folks along the coast that build boats, who make

their living building boats and who hire people to work for them and store boats, is that this is real money to them. This is real jobs to them. They are definitely in support of this Senate Amendment.

I strongly urge you on behalf of the boat builders and boat storage yards up and down the coast of Maine to please oppose the indefinite postponement motion. Thank you.

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

Representative DORE: Mr. Speaker, Men and Women of the House: I have enjoyed the company of my seat mates for these past two years and I am assuming that we will continue to be good friends, but on this issue we are going to disagree. We are not going to disagree on the merits of this amendment.

Let me review for you my experience with this amendment. This item was put in to the tax technical changes bill. My understanding is that somebody and not a legislator suggested to the member of the other body that that would be an appropriate place for this. At various times over the last 10 years, we have thrown many things off the technical changes tax bill, things that the State Tax Assessor wanted to see happen. We have had a variety of different tax assessors, so I am not specifically referring to this one. We have thrown them out of the technical changes tax bill because they are a policy decision and inappropriate in the technical changes tax law. We all have technical changes bills in our committee and the integrity of it being just technical and not philosophical is very important. This goes well beyond technical.

When we discovered this section of the bill, the committee decided as a group, there are coastal members of our committee, that this had to come off. I encountered the person who had asked for this to be placed on the technical changes bill and she indicated to me that it was very important to her community. I told her if it was very important to your community, go to Legislative Council and get a bill put in. It belongs in a bill. She said, "Well, nobody came to the hearing to oppose it." Of course nobody came to hearing to oppose it or to speak for it. There hasn't been a serious discussion on the merits of this. This is a change in tax policy when you change the open period of time before which you will have to pay sales tax.

It turns out she didn't want to go before the Legislative Council and put in a bill because she said she had opposed several bills this year that were put in late. Since she was philosophically opposed to putting in any bills late, she wanted it to stay in the technical changes bill so she could support this, but not put in a late bill. I said to her that it sounds to me like what you want is for the rules for everybody else are that technical changes bills are technical changes bill, but the rule for you since you don't like late bills, you want a technical change bill to change a policy matter. Her response was, "Well, it has no fiscal note." It might have a fiscal note if it were a bill.

If this were a bill and I were a western Maine legislator where there are a lot of mobile home and camper construction companies and a very high rate of unemployment, I would say in addition to luxury boats, it might be easier to sell campers from Maine if there were a six-month window for taking it out of state and not paying the tax. Then we might be able to customize more campers. If I lived in Oxford

County, I would want this, which is the other 30-day exception to also be true for campers. Instead of 30 days, let's give it six months. She said that that might add a fiscal note to the bill and then I would be in trouble. I said, that, again, is not our problem. We should have a hearing on the bill. We should find out if the other two categories that get a 30-day waiver as long as the property is being moved out of state would also like an extension to six months if it would also help their business or industry, which is located in a different part of the state.

Perhaps, Representative Reed will remember the third category. I know it is boats, campers and airplanes. These are all fine businesses to run in this state. If you defeat this motion, I will go with that Senator to Legislative Council where she will have to eat a little humble pie to put in a late bill or wait until next year so that we can have a last minute hearing so that proponents and opponents can show up and discuss the relative merits of expanding an exemption. If you start expanding the dates of an exemption in a technical changes bill, I would suggest by the time it comes back here, I am going to want to expand several other exemptions. It is going to get expensive and it is going to die on the Appropriations Table because it is not a suitable place to expand the time line of an exemption. My issue is not with the right to have this exemption expanded. It is with the appropriate vehicle, hearing and a discussion about who else would benefit from this change in tax treatment.

I would ask you to indefinitely postpone Senate Amendment "A" to Committee Amendment "A." Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone Senate Amendment "A" (S-498) to Committee Amendment "A" (S-494). All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 327

YEA - Aikman, Ault, Bailey, Barth, Berry, Bouffard, Brennan, Buck, Cameron, Campbell, Carleton, Chase, Chick, Chizmar, Cloutier, Clukey, Daggett, Damren, Davidson, Dexter, Dore, Farnum, Fisher, Gamache, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Guerrette, Hartnett, Heeschen, Hichborn, Jacques, Jones, S.; Joseph, Joyce, Joyner, Keane, Kerr, Kneeland, Kontos, Labrecque, Lane, Layton, Lemaire, Libby JD; Libby JL; Lovett, Lumbra, Madore, Marshall, Marvin, Meres, Morrison, Nadeau, Nass, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Poirier, Poulin, Reed, G.; Rice, Richardson, Ricker, Robichaud, Rosebush, Rowe, Savage, Saxl, J.; Shiah, Simoneau, Spear, Stedman, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tufts, Tuttle, Tyler, Underwood, Vigue, Waterhouse, Watson, Wheeler, Whitcomb, Winglass, Winn, Winsor.

NAY - Adams, Ahearne, Benedikt, Bigl, Carr, Cross, Desmond, DiPietro, Driscoll, Etnier, Gates, Hatch, Heino, Johnson, Jones, K.; LaFountain, Lemke, Lemont, Lindahl, Look, Luther, Martin, Mayo, McAlevey, Mitchell JE; O'Gara, Pinkham, Povich, Reed, W.; Richard, Samson, Saxl, M.; Sirois, Volenik.

ABSENT - Birney, Bunker, Chartrand, Clark, Donnelly, Dunn, Fitzpatrick, Joy, Kilkelly, McElroy, Mitchell EH; Murphy, Nickerson, Plowman, Pouliot, Truman, The Speaker.

Yes, 100; No, 34; Absent, 17; Excused, 0.

100 having voted in the affirmative and 34 voted in the negative, with 17 being absent, Senate Amendment "A" (S-498) to Committee Amendment "A" (S-494) was indefinitely postponed.

Subsequently, Committee Amendment "A" (S-494) 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.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-494) in non-concurrence and sent up for concurrence.

#### Non-Concurrent Matter

Bill "An Act to Establish a Higher Education Tax Credit for Middle-class Families" (H.P. 1171) (L.D. 1603) on which the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-771) Report of the Committee on Taxation was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-771) in the House on March 20, 1996.

Came from the Senate with the Minority "Ought to Pass" as amended by Committee Amendment "B" (H-772) Report of the Committee on Taxation read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (H-772) in non-concurrence.

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

#### CONSENT CALENDAR

##### First Day

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

(S.P. 752) (L.D. 1865) Resolve, to Extend the Reporting Deadline of the Export Financing Services Study Group (EMERGENCY) Committee on Business and Economic Development reporting "Ought to Pass"

(S.P. 700) (L.D. 1790) Bill "An Act to Implement Performance Budgeting in State Government" (EMERGENCY) (Governor's Bill) Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-502)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, March 25, 1996 under the listing of Second Day.

#### ENACTOR Mandate

An Act Concerning the Number of Washington County Commissioners (S.P. 703) (L.D. 1792) (C. "A" S-487)

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. 118 voted in favor of the same and 1 against, and accordingly the Mandate 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 Allow the Adjutant General to Sell Unfit and Unneeded Property and Apply Proceeds to the Military Bureau's Construction and Capital Repair Account, to Authorize the Adjutant General to Transfer Real Property, and to Authorize the Military Bureau to Retain the Proceeds of Armory Rentals" (S.P. 660) (L.D. 1720) which was tabled by Representative JACQUES of Waterville pending adoption of House Amendment "A" (H-823) to Committee Amendment "A" (S-489).

Subsequently, House Amendment "A" (H-823) to Committee Amendment "A" (S-489) was adopted.

Committee Amendment "A" (S-489) as amended by House Amendment "A" (H-823) thereto 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.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-489) as amended by House Amendment "A" (S-489) in non-concurrence and sent up for concurrence.

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

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On motion of Representative WHEELER of Bridgewater, the House adjourned at 12:10 p.m. until 9:00 a.m., Monday, March 25, 1996 in honor and lasting tribute to the memory of Loretta Mary Clark of Millinocket, the mother of Representative Herbert E. Clark.