

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
31st Legislative Day
Tuesday, March 26, 1996

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

Prayer by Reverend Donald R. Daigle, St. Bridgett's Catholic Church, North Vassalboro.

National Anthem by South Portland High School Band.
Physician for the day, James M. Kirsh, D.O., Falmouth.

The SPEAKER: Ed Muskie, as you know, was born in Rumford, Maine on the 28th of March 1914. He served as a member of the 93rd, 94th and 95th Maine House of Representatives, representing the City of Waterville. He was elected as the 64th Governor of the State of Maine in 1955 and served for two terms. He was elected to the United States Senate in 1958 in a capacity in which he served until May 7, 1980. He was a candidate for Vice President in 1968 and of course, was appointed as the United States Secretary of State, the 59th Secretary of State, in 1980. The Chair would ask the members, at this time, to please stand for a moment of silence in the passing of Edmund Sixtus Muskie.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Communication: (H.C. 398)

Maine State Senate
State House Station 3
Augusta, Maine 04333

March 25, 1996

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 on Bill "An Act to Grandfather Municipal Ordinances Regulating the Spreading of Sludge" (S.P. 705) (L.D. 1804).

Sincerely,
S/May M. Ross

Secretary of the Senate

Was read and ordered placed on file.

The following Communication: (H.C. 399)

Maine State Senate
State House Station 3
Augusta, Maine 04333

March 25, 1996

The Honorable Dan A. Gwadosky

Speaker of the House
117th Legislature
Augusta, Maine 04333

Dear Speaker Gwadosky:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Natural Resources, Katharine C. Littlefield of Belfast for appointment as a member of the Board of Environmental Protection.

Sincerely,
S/May M. Ross

Secretary of the Senate

Was read and ordered placed on file.

Ought to Pass as Amended

Report of the Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-511) on Bill "An Act to Promote the Health of Newborns and Their Mothers" (EMERGENCY) (S.P. 670) (L.D. 1732)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-511) as amended by Senate Amendment "A" (S-521) thereto.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-511) was read by the Clerk. Senate Amendment "A" (S-521) to Committee Amendment "A" (S-511) was read by the Clerk and adopted. Committee Amendment "A" (S-511) as amended by Senate Amendment "A" (S-521) 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-511) as amended by Senate Amendment "A" (S-521) thereto in concurrence.

Ought to Pass Pursuant to Joint Order (S.P. 737)

Report of the Committee on Marine Resources reporting "Ought to Pass" pursuant to Joint Order (S.P. 737) on Bill "An Act Concerning the Salmon Aquaculture Monitoring and Research Fund" (EMERGENCY) (S.P. 764) (L.D. 1876)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-515).

Report was read and accepted. The Bill read once. Senate Amendment "A" (S-515) 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 Senate Amendment "A" (S-515) in concurrence.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bill and Resolve were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Appropriations and Financial Affairs

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$16,500,000 to Investigate, Abate and Clean Up Hazardous Substance Discharges, to Clean Up Tire Stockpiles and to Close and Clean up Municipal Solid Waste Landfills" (H.P. 1371) (L.D. 1879) (Presented by Representative SPEAR of Nobleboro) (Cosponsored by Senator: MICHAUD of Penobscot) (Governor's Bill)

Resolve, to Amend the 1995 Kennebec County Budget (EMERGENCY) (H.P. 1369) (L.D. 1878) (Presented by Representative MADORE of Augusta) (Approved for

introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Reference to the Committee on State and Local Government suggested.

Under suspension of the rules and without reference to a Committee, the Resolve was read twice, passed to be engrossed and sent up for concurrence.

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

ORDERS

On motion of Representative NADEAU of Saco, the following House Order: (H.O. 50)

WHEREAS, it appears to the House of Representatives of the 117th Legislature that the following are important questions of law and that this is a solemn occasion; and

WHEREAS, the Constitution of Maine, Article VI, Section 3, provides for the Justices of the Supreme Judicial Court to render their opinion on important questions of law upon solemn occasions; and

WHEREAS, there is now before the 117th Legislature for its consideration Initiated Bill 5, Legislative Document Number 1823, "An Act to Reform Campaign Finance"; and

WHEREAS, the bill may have constitutional infirmities that can not be corrected by revision or amendment; and

WHEREAS, it is vital that the Legislature be informed as to the questions propounded in this order; now, therefore, be it

ORDERED, that, in accordance with the provisions of the Constitution of Maine, the House of Representatives respectfully requests the Justices of the Supreme Judicial Court to give the House of Representatives their opinion on the following questions of law:

Question 1. If Initiated Bill 5 becomes law, would those provisions related to the so-called "Maine Clean Election Fund" unconstitutionally interfere with the Legislature's authority to appropriate state funds or violate the constitutional principle that one Legislature may not bind future Legislatures?

Question 2. If Initiated Bill 5 becomes law, would it violate the Equal Protection Clause of the United States Constitution or of the Constitution of Maine by providing public money to certain candidates and not to others based upon factors not under the control of the candidates?

Question 3. If Initiated Bill 5 becomes law, would it place an unconstitutional financial burden on qualifying or running for public office by requiring candidates for the Senate and the House of Representatives to raise certain amounts of money from certain numbers of voters in order to qualify for public financing?

Question 4. If Initiated Bill 5 becomes law, would those provisions that impose new limits on campaign contributions by individuals, committees, corporations and associations violate the First Amendment of the United States Constitution or the Constitution of Maine, Article 1, Section 4? The House of Representatives is particularly concerned about this question in light of the decision of the United States Court of Appeals for the Eighth Circuit, in December of 1995, in Carver v. Nixon that

found campaign contribution limitations imposed by Proposition A in Missouri violated the First Amendment of the United States Constitution.

Was read.

On motion of Representative NADEAU of Saco, tabled one legislative day pursuant to House Rule 40.

On motion of Representative CAMERON of Rumford, the following Joint Order (H.P. 1370)

ORDERED, the Senate concurring, that Bill, "An Act to Place Limited Rules on the Use of Personal Watercraft on Waters of the State," H.P. 1365, L.D. 1874, and all its accompanying papers, be recalled from the legislative files to the House.

Was read.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: It was with some reservation that I stand to speak to this. The history of this House would be that if I didn't say anything it would probably just pass under the hammer, which would be a great thing, but I did want to emphasize why I think it is important that we bring this back from the dead, if you will.

I am sure that many of you who live in rural areas have heard from your constituents about this issue. The issue is about jet skis in particular. I have no opposition to people using jet skis at all, but on some of our small lakes and ponds around the State of Maine, ladies and gentlemen, the jet skis are causing a public safety problem. It is like any other motorized vehicle. They are very powerful and very fast and in the wrong hands they are a deadly weapon.

This bill was killed in the other body. We probably don't have a great chance of reviving it, but I would appreciate your support and think about the small lakes and ponds in your communities and the potential for harm to the swimmers. This bill would change the shoreline limit of where these vehicles could be operated from 200 feet to 300 feet away from shore to keep them well away from the areas of swimmers. We haven't had a lot of serious injuries yet. We have a real serious potential for injuries, again, particularly in our small ponds, less than 50 acres. These vehicles in the wrong hands are very, very dangerous and I would appreciate your support to bring this back from the dead. Thank you.

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

Representative GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: I agree with the other Representative, only I disagree, it should be left with the dead. We have heard this bill in Fisheries and Wildlife Committee many times. We have had hours of debate on it. If we pass it today, we will have no public hearing, no comment time and it probably won't even have a committee hearing. People worry about being killed with these watercraft. The automobile is the biggest killer we have ever had in this state and we neglect to recognize it because we like it. I ask for a roll call.

Representative GREENLAW of Standish requested a roll call on passage.

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 Passage. All those in favor will vote yes; those opposed will vote no. The rules require a two-thirds vote for passage.

ROLL CALL NO. 332

YEA - Adams, Ahearne, Aikman, Bailey, Barth, Benedikt, Bigl, Bouffard, Brennan, Buck, Bunker, Cameron, Campbell, Carleton, Carr, Chartrand, Chase, Chick, Chizmar, Clark, Clukey, Daggett, Davidson, Desmond, Dexter, Driscoll, Etnier, Farnum, Fisher, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Guerrette, Hartnett, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joy, Joyner, Keane, Kilkelly, Kneeland, Kontos, LaFountain, Layton, Lemaire, Lemont, Libby JD; Look, Luther, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Murphy, Nadeau, Nass, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Poirier, Poulin, Povich, Reed, G.; Rice, Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Spear, Stevens, Stone, Strout, Taylor, Thompson, Treat, Tripp, True, Tufts, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, Winglass, Winn.

NAY - Ault, Berry, Cross, Damren, Greenlaw, Heino, Jones, S.; Joyce, Lane, Lindahl, Lovett, Lumbra, Perkins, Pinkham, Reed, W.; Robichaud, Stedman, Waterhouse, Whitcomb, Winsor.

ABSENT - Birney, Cloutier, DiPietro, Donnelly, Dore, Dunn, Fitzpatrick, Joseph, Kerr, Labrecque, Lemke, Libby JL; Mitchell JE; Morrison, Nickerson, Plowman, Pouliot, Savage, Simoneau, Townsend, Truman, Underwood, The Speaker.

Yes, 108; No, 20; Absent, 23; Excused, 0.

108 having voted in the affirmative and 20 voted in the negative, with 23 being absent, a two-thirds vote being necessary, the Joint Order (H.P. 1370) was passed and sent up for concurrence.

REPORTS OF COMMITTEES
Ought to Pass as Amended

Representative BAILEY from the Committee on **Transportation** on Bill "An Act to Amend Certain Motor Vehicle Laws Including Those Affecting the University of Maine System Plate and the Certificate of Lien" (H.P. 1195) (L.D. 1639) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-847)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-847) was read by the Clerk.

Representative HARTNETT of Freeport presented House Amendment "A" (H-852) to Committee Amendment "A" (H-847) which was read by the Clerk.

On motion of Representative STROUT of Corinth, tabled pending adoption of House Amendment "A" (H-852) to Committee Amendment "A" (H-847) and later today assigned.

Ought to Pass as Amended

Representative LINDAHL from the Committee on **Transportation** on Bill "An Act to Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Fiscal Year Ending

December 31, 1997" (H.P. 1325) (L.D. 1815) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-846)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-846) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read twice 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-846) and sent up for concurrence.

Ought to Pass as Amended

Representative O'GARA from the Committee on **Transportation** on Bill "An Act to Make Supplemental Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1996 and June 30, 1997" (EMERGENCY) (H.P. 1336) (L.D. 1830) (Governor's Bill) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-848)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-848) 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-848) and sent up for concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 647) (L.D. 1689) Resolve, Directing the Department of Human Services to Take Steps to Reduce the Regulation of Nurses Providing Care to Nursing Home Residents Committee on **Human Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-514)

(S.P. 727) (L.D. 1833) Bill "An Act to Clarify the Definition of Commercial Whitewater Outfitter" (EMERGENCY) Committee on **Inland Fisheries and Wildlife** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-513)

(H.P. 1361) (L.D. 1869) Bill "An Act to Increase the Debt Limit of the Madawaska Water District" Committee on **Utilities and Energy** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-845)

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

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

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

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

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

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.

SENATE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (S-451) - Minority (2) "Ought to Pass" as amended by Committee Amendment "B" (S-452) - Committee on Business and Economic Development on Bill "An Act to Amend the Membership of Certain Boards and Commissions" (S.P. 640) (L.D. 1675)

- In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-451).

TABLED - March 20, 1996 (Till Later Today) by Representative ROWE of Portland.

PENDING - Motion of Representative DAVIDSON of Brunswick to accept the Majority "Ought to Pass" as amended by Committee Amendment "A" (S-451) Report.

On motion of Representative MITCHELL of Vassalboro, tabled pending the motion of Representative DAVIDSON of Brunswick to accept the Majority "Ought to Pass" as amended by Committee Amendment "A" (S-451) Report and later today assigned.

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

An Act to Amend the Laws Concerning Commercial Whitewater Rafting (EMERGENCY) (S.P. 719) (L.D. 1820) (C. "A" S-486)

- In House, failed of passage to be enacted on March 21, 1996.

- In Senate, passed to be engrossed as amended by Committee Amendment "A" (S-486) as amended by Senate Amendment "A" (S-508) thereto in non-concurrence.

TABLED - March 25, 1996 (Till Later Today) by Representative GREENLAW of Standish.

PENDING - Further Consideration.

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

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: First, I am not speaking as a floor leader. I am speaking as the Representative from Vassalboro. The pending motion would have us agree with the other body. This is the same piece of legislation that was debated heatedly previously concerning allocations of resources on the rivers of Maine for whitewater rafting. Nothing has changed. The only thing that has changed was that the emergency amendment was stripped off because this failed of enactment in the House. This is a very complex piece of legislation. We have set up a system whereby we try to keep a semblance of competition on our rivers. To change it so dramatically and so quickly and where 90 percent of the people who use this river feel that it is not in their best interest is, to me, going much too far. It has been my hope since this debate first started that men and women of goodwill and that competing raft companies on that river could sit down and come

up with an accommodation. That hasn't happened yet and I would suggest that might does not make right and that we vote against the recede and concur motion. I would ask for a roll call on the motion.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: I totally disagree with the former speaker even though she is a close friend of mine. Having served here for 16 years and being part of whitewater rafting, I look at it as there are only a few left in this chamber that had anything to do with it when it first got formed, Representative Jacques, myself and a few other representatives. I think the rafting industry would not be where it is today if it wasn't for us here.

If you talk about misinformation being put out, just read some of the articles that they are putting out. There is not going to be any change in allocations. It is not going to change the environment. We are still going to have rules and that we have always had. Nothing is going to change. Nothing to say that companies are going to be able to be bought tomorrow. We don't know that. I can tell you right now that the 16 years that I served here, I have never been a friend of whitewater rafting. Representative Jacques can attest to that. I have never been a friend of whitewater rafting. I always thought of the Penobscot River to be for everyone, just not whitewater rafting. They convinced me this bill is good. I wouldn't be here today talking to you if I didn't think this bill was healthy for the industry. This bill, I think, is really healthy for the industry.

You talk about jobs and the economy of our area. We need this bill. It is not going to hurt whitewater rafting. Whitewater rafting was against the amendment and now they don't like the amendment, they like the bill. They never know where they are coming from. For the 16 years I have served here, we never got a straight answer from any of them. I was blessed one term, I chaired the Commission of Whitewater Rafting. The biggest mistake I ever had. You can never please any of them. The only thing we could do is come up with rules and regulations that they had to abide by. They had to abide by rules and regulations that we set up or the industry would not be here today.

I remember many comments that Representative Jacques made. If it wasn't for us, they would not be here. Don't forget that. The industry would not be here today if it wasn't for the Legislature. They would eat each other up. Just look at them out in the hallway. All the facts they are putting out are so misleading. All the phone calls you are getting are so misleading. Listen to what we have done here over the years. I thought we have done a good job putting together whitewater rafting for the State of Maine. A lot of companies aren't even from the State of Maine, but they want to use our resource. They want to use our waters. I think when you vote today you vote with recede and concur. Thank you.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: I had no intention of getting involved in this last week, but over the weekend I got a call from Howard Trotzky. Some of you may have been

blessed with a call from him. It took me about 40 minutes to get him off the phone. Some of you may remember Howard when he was a member of the other body. He asked me a question and that was, would I take a look at the legislation again? I did, because frankly, I hadn't looked very much at it. I was listening to the Representative from Waterville, Representative Jacques. You know what I found out, the Representative from Waterville is right, not Howard Trotzky.

Some of you have been led to believe that this is free enterprise. It is a monopoly. Whatever way you want to call it, it has been, will be and isn't going to change with what is going on right now. The other thing which I have now discovered is I don't know why they are complaining. During the allocated days on weekends, there wasn't a single empty slot last year, not one. That is free enterprise? Those were all the slots available. You are not changing the mix at all and you are not changing what you and I are going to pay if we want to go down the river in a raft. What is the bottom line? I started looking at it. Basically what it is, is that they are all scared that they aren't going to get a good deal if they want to sell. I am not looking at it from that direction. If they want to get out of the business, let them get out. We ought to be concerned with what it means for our people and not for those who are making the profits and they are making it.

Nothing is going to change by this. The availability of open days right now, last year and this year are only during the week. Who are they kidding? That was the basis of my conversation and discovery after looking at it and I decided that Howard Trotzky was wrong and Paul Jacques was right. That is how I finally summed it up. I would ask you to vote to recede and concur against the Assistant Democratic Floor Leader. Thank you.

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

Representative PERKINS: Mr. Speaker, Colleagues of the House: This bill is confusing. There is no question. We have been getting calls and getting pressed and so forth. There are a few facts that everybody would agree on. This system has been operating for about 15 years, I guess, with these allocations. We are being asked to make a decision in a hurry based on really one company represented in the lobby. They have been here for weeks. He is a very good lobbyist and he seems like a heck of a nice guy, but that is irrefutable. There is only one person representing that side of the argument there. We have a petition signed by 11 people in the industry. Another fact is, in front of our committee the Department of Fish and Wildlife said that this bill will reduce the minimum number of companies probably from 13 down to 6, half.

In this limited entry system that was set up with a limited number of allocations, the previous speakers are right, it isn't changing the number of allocations. It isn't a conservation method or anything. It is solely so instead of having 13 companies or so, now we can have maybe six because each one of these companies under this will be able to have twice as many and maybe that is what we want. I think it would take a lot more study than we have been able to do in this short time and we are getting flaked with all this information. I need more time, that is for sure. When in doubt, I tell people on an issue this large, with this big a change

after 15 years of doing something, we don't know what it is going to do. I would say vote red on this one.

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

Representative MERES: Mr. Speaker, Men and Women of the House: I would like to talk to you a little bit about my experience with this bill. I live on the Kennebec River and my district is along that river. I became concerned about this, originally, because I was concerned about a monopoly. That was my intent when I voted the first time.

The second time this came up, I directed a question to the Chair and I asked about the Kennebec River and the percentage. I was assured by the good Representative from Waterville, that my math was correct. This did not constitute a monopoly or a real threat to competition. I have children, six of them, and most of them are involved in this sport. I was concerned that possibly in the future one of them might decide to go into this business and there would be no room. I talked quite extensively about this with the people that I could find around the halls and also in phone conversations with the company in Vassalboro about this particular subject.

When I got to the Legislature yesterday, there was a letter on my desk from North Country Rivers. It said, "Dear Representative, The enclosed list of your constituents would like you to vote no on L.D. 1820. I urge your support in defeat of L.D. 1820 by voting no." It sounded OK. I looked at the list and I know most of the people on this list because they are either friends of my children or they are people that live close to me. Nobody gave me a phone call. As I looked down the list, I found somebody by the name of Valerie Meres on it. Valerie is my daughter-in-law. Valerie lives in Montana. Valerie has lived in Montana now for almost two years because they are going to college out there, her and my son. Valerie's mail comes to my house. I questioned it because I know that Valerie did not call up North Country Rivers and tell them that she had a problem with this legislation. I knew if Valerie had a problem at all, she would call me. We communicate on a regular basis, both by telephone and by E-mail.

Yesterday, I went down and I spoke with the people from North Country Rivers and I asked them about this. Their first response was, well, didn't she get a card. I said that I knew for a fact she didn't because it is sitting on my counter. I have since thrown it out. Anyway, the point was that there was a problem with this letter for two reasons. First of all, it was inaccurate and second of all it was trying to put pressure on me because there was a list here saying that I had constituents that were opposed to this. Third of all, it was unfair to the people on the list because they did not know about this and give their permission to be on it.

After I challenged this, there was a letter on my desk in the afternoon. It wasn't an apology. It wasn't written to me. It was a copy of a letter that was addressed to Representative Mitchell. It said, "North Country Rivers drafted a letter to 12 Representatives on March 22, 1996. These Representatives voted no on the 319 roll call of 1820 and switched to yes on the March 22, 1996 roll call." I will refresh your memory. The reason I changed my mind was because I did a lot of investigating. I didn't change my mind because I was a flake. I changed my mind because I asked relevant

questions and got good answers. This letter was directed to those Representatives with an intent to notify them of several constituents in their districts who have rafted with a small company.

Let me remind you that the letter, itself, said, "Enclosed is a list of constituents who want you to vote no." We feel that there is substantial participation by constituents in their district that prefer a small rafting company. Their feelings have nothing to do with legislation and secondly, I did call one of my children who did this and their feeling was that they wanted to have a good ride, on a day that they could get it, period. The intention of this letter was only to imply the above statement and support that statement with an actual statistic sampling of the database. It is totally irrelevant. Any of these instances contrary to this are unintended. Please forward this letter of clarification to those enclosed Representatives.

I have a real problem here now because I feel we were manipulated as legislators with false information and it takes away from the credibility of the statistics we have heard from these people. It bothers me. It bothers me because I feel that my constituents on here were misrepresented too. I am irate. It makes me angry because in this process, I don't feel that you should use people for your own gain. I am really angry and I am upset and I have a lot of respect and a lot of understanding why this tactic was used in this case.

I also want you to realize that I did some further study last night and I talked to some people about the economic impact here, in the positive sense, for people in Maine in areas where that economy needs to grow. I talked about the tourism factor. I talked about some of the related activities that this new group will do to enhance education in schools for children that want to participate in some of the other activities that will take place dealing with things like the rope course and self-esteem and all these things that we don't hear about that are really positive for the State of Maine. I would like you to understand that the impact here is very significant. I would ask you to agree with me and vote to recede and concur.

I would like to ask a question through the Chair. I would like to ask somebody on that committee to explain to me what happened during the work session? Were there people there talking about the good economic benefits of what is going to happen? Were there people there talking about the possibility for growth in education and the opportunities to work with business on some of these self-esteem and other activities that could take place? If that was true, I would like them to explain that to me.

The SPEAKER PRO TEM: The Representative from Norridgewock, Representative Meres has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: In response to the question, yes, there was a company there that responded to just about every question that she asked. It was a company that was going through this change. They answered all the questions I needed to have answered. I have a lot of concerns with rafting as I told you earlier. He answered the questions I had. He was very honest and very sincere in the way he put it across. The good Representative spoke on

honesty. We have had this problem in the 15 years that I dealt with whitewater rafting. For 15 years, we dealt with yes, no or whatever, maybe, but the answer is yes there was a company that responded to the questions that I had to have answered. They are basically the same questions you asked me.

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 Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: Mr. Speaker, Men and Women of the House: I have listened to the debate on this and the handouts and all of this for weeks on end it seems like. I don't live near the river, but I have watched and listened and I am opposing the recede and concur motion for very simple reasons. I see this as a special interest bill that was put in for the benefit of one company. Number two, the present regulations have been working and no one has shown me that they haven't worked. Number three, I don't like to enact new legislation or change legislation unless something has been proven to me that it has been broken. Therefore, I can't support the recede and concur.

The SPEAKER PRO TEM: The Chair recognizes the Representative from East Millinocket, Representative Rosebush.

Representative ROSEBUSH: Mr. Speaker, Men and Women of the House: I will try to keep this simple. The committee worked a long time on this bill. We came out of committee with a unanimous, unanimous, unanimous, unanimous report. Basically, what this thing is doing is it allows a company to buy another company. The same allocated days are there. It is like Representative Martin mentioned before, it is not going to change a thing. You allow one business to buy another business. I have a hard time figuring out what is wrong with that. It doesn't change allocated days.

One of the problems that I am finding out that bothers me, like it does with Representative Meres, is the misleading information going on out there. Eleven out of 15 companies now say they are against it. Out in the hall you are seeing 90 percent, that is not 90 percent. The committee worked hard on it. It is a good bill. We had people on the committee that have been here throughout the 15 years watching this and it is a good compromise. It allows a company to buy another company. The thing that bothers me about what is going on here is things that aren't factual. They want to talk about personal gains. People want this defeated by not telling the truth. Where does that rate? I hope this body votes to recede and concur.

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

Representative PERKINS: Mr. Speaker, Men and Women of the House: Briefly. The first report was 11 to 2. Representative Jacques and myself didn't like the bill. We voted against it. Some days later, Representative Jacques approached me with an amendment that looked like a compromise that would bring people together. We voted again and that is

when it came out unanimous. Since then, this petition came upon our desk signed by 11 of the 14 or 15 companies, some of whom testified in front of our committee. A few were neutral. One was for it in front of our committee. With this petition, I changed my view back to my original one. I still don't like it.

The industry almost unanimously is against it. Let me just say this, there is no crisis. I repeat, there is no crisis. Thank you.

Representative CLARK of Millinocket requested the Clerk to read the Committee Report.

The Clerk read the Committee Report in its entirety.

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

ROLL CALL NO. 333

YEA - Bailey, Bigl, Buck, Carr, Chick, Clark, Cluey, Dexter, Donnelly, Dore, Driscoll, Farnum, Fisher, Gamache, Gates, Gooley, Gould, Greenlaw, Guerrette, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Joy, Joyce, Joyner, Labrecque, Lane, Lemaire, Lindahl, Look, Lumbra, Martin, Meres, Nadeau, O'Neal, Paul, Pendleton, Reed, G.; Reed, W.; Ricker, Robichaud, Rosebush, Saxl, J.; Saxl, M.; Simoneau, Tufts, Tyler, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

NAY - Adams, Ahearne, Aikman, Ault, Barth, Benedikt, Berry, Birney, Bouffard, Brennan, Bunker, Cameron, Campbell, Carleton, Chartrand, Chase, Chizmar, Cross, Daggett, Damren, Davidson, Desmond, DiPietro, Etnier, Fitzpatrick, Gerry, Gieringer, Green, Hartnett, Hatch, Heino, Jones, S.; Keane, Kerr, Kilkelly, Kneeland, Kontos, LaFountain, Layton, Lemont, Libby JD; Lovett, Luther, Marshall, Marvin, Mayo, McAlevey, McElroy, Mitchell EH; Mitchell JE; Murphy, Nass, O'Gara, Ott, Peavey, Perkins, Pinkham, Poirier, Poulin, Pouliot, Povich, Rice, Richard, Richardson, Rowe, Samson, Savage, Shiah, Sirois, Spear, Stedman, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tuttle, Vigue, Volenik, Watson, Winn.

ABSENT - Cloutier, Dunn, Lemke, Libby JL; Madore, Morrison, Nickerson, Plowman, Truman, Underwood, The Speaker.

Yes, 55; No, 85; Absent, 11; Excused, 0.

55 having voted in the affirmative and 85 voted in the negative, with 11 being absent, the motion to Recede and Concur did not prevail.

On motion of Representative MITCHELL of Vassalboro, the House voted to Insist and ask for a Committee of Conference.

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

Communication from the Committee on Agriculture, Conservation and Forestry (H.C. 394)

TABLED - March 25, 1996 (Till Later Today) by Representative SPEAR of Nobleboro.

PENDING - Placing on file.

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

Representative HICHBORN: Mr. Speaker, Men and Women of the House: I never liked long speeches. I have always been suspicious of those that had too many capital I's. In order to establish a little

credibility and to impress upon you the sincerity with which I speak, I am going to break both of those rules that I don't like.

I was born in the woods on a hill up here in central Maine, to which my great-great-grandmother came as a widow with three boys and a girl in 1808. When my great-grandfather got old enough, he looked down to the foot of the hill. He saw a little brook and he established a little saw mill down there. He sawed lumber. He built the house in which I was born. He planted trees around it. When I was a small child, four or five years old, my father cut down one of those trees because it had grown old. Two years ago, the last of those six trees that my great-grandfather had planted was struck by lightning. It sent shards of pine all over the field. It came crashing into the kitchen and set the house on fire. I put out the fire. When that last tree came down, my great-grandfather really left this world, so far as I was concerned.

In the door yard, on the other side of the house, were three maples that my grandfather had planted long before he went off to the Civil War. I have always had a great liking for trees. I think they are probably one of the most telling lessons I got in forestry. I got from my father when I was probably 10 years old and that was some 75 years ago. I went home from school and I had learned a poem. I can't recite the poem today, but I remember the title. It was Woodsmen Spare their Trees.

I think my father probably was a conservationist. I think he would probably would be an environmentalist, a true one, today, if he were living. I recited the poem to him. He didn't laugh. He didn't make fun. He didn't criticize. He gave me a lesson that I have never forgotten. He said, "A tree starts from a seed. It may take 100 years or 150 years to grow, but eventually it will grow old and then it will fall to the forest floor and there will be a big opening in that space. It says on these 25 other trees that will start growing and as they start to grow, one will get a little taller than the other. It will get a little more sun. It will eat a little more of the nutrients to make it grow. Eventually it will shade out the other trees and in the life span of a tree, that tree will replace the one that fell." That was his lesson in natural reforestation or natural regeneration.

This initiative that we are considering here today and which will go forth to the public in the fall is called a clear-cut bill. That is only one small part of the whole issue. I know that people who vote on this, if they are not familiar with the forest and if they don't love the forest and haven't lived there as I have all my life, won't look at the picture of a clear-cut and say, "My goory, what a terrible thing that is. It is a shame."

Of course, I am against clear-cutting. Let me tell you about the first clear-cut that I saw, which is only three or four miles from the house. The place where as a young fellow I fished or hunted or panned for gold in a little brook that came down off the ridge. It was a terrible sight to me when I came over the hill and saw that devastation. I was shocked. I was angry and there was a forester there and I said that I will never come back to this place again as long as I live. As stubborn as this old fellow is, I have gone back. I heard some work going on out there last summer and I went out. They were in there with the machines. Where devastation

existed some 30 years ago, they were removing the cull wood, cleaning the stands and there was as pretty as piece of forest land as you could ever ask to see. That was an actual regeneration.

I have another little story to tell you that deals with regeneration, which is natural. My boys had some sheep. They started with six and they eventually got 100. They were pastured on land that my great-grandfather had cleared with an ox. It was still mowable land. It was good pasture land. When the boys found out that the sheep didn't have motors and didn't have wheels, they lost interest and daddy didn't want to be a shepherd the rest of his life so they sold them. Today, this also 30 years later, there is a poplar stand there with trees 15 or 18 inches through and there are pines 12 and 14 inches through growing tall and straight. That is reforestation.

I had a 1,000 acres of land of my own at one time, but they told me I couldn't take it with me when I left this world, so most of it was sold. I saved 100 acres. I don't want any clear-cutting on that, but I understand and I tell you this story to let you know how I feel about the clear-cut. Fortunately, I have found one advantage in growing old and that is to see what happens when the clear-cut has taken place. There is life after it. The forest is not liquidated. Clear-cutting is only an option. It is only one of many forestry management practices. We know what happened when the spruce bud worm devastation occurred. Flying over that area, if you have ever done it, you would have been shocked if you had seen it then. It wouldn't have looked any better had you left those trees there to fall one by one as nature brought them down. Reforestation has taken place.

Asking the landowners to cut only one-third of the wood that is on a lot of land every 15 years means it would be 45 years before you would get it all. You can't operate a business necessarily like that. Clear-cutting was the only answer in the spruce bud worm infested area. It is not a practice that you or I would want on land that was productive. We might want to forest manage as grandfather did. If you have millions of acres of land, you can't do it that way. It is comparable to gardening in a dish and gardening on a 1,000 acre field.

I would like to speak also, just for a moment on the economic impact. I have two questions. The first question is this. Do you think that people who own millions of acres of land and who have billions of dollars invested in land, equipment, lumber mills, woodworking shops and pulp and paper mills would want to manage their land in any way that would affect adversely the sustainability of the forestry resource upon which they depend? Of course they wouldn't. These companies employ foresters who are supposed to be experts in their field. They manage that so they can get the greatest number of dollars in return for the investment that they have. I am sure that in this room there are people who probably have investments in these paper companies. We are a part of the corporation. We sometimes think of a corporation as being a somewhat intangible thing. It is not, it is made up people just like you and me.

The second question is this. Do you think that Great Northern, located in the Millinocket area where clear-cutting was at its most extensive when this spruce bud worm took its toll, do you think they would be seriously talking about a 457 million dollar

new mill in that area if they thought there was any question about the sustainability of the resource? I think those two questions alone should be enough to convince us that this bill or this initiative is not going to be good for the people of Maine, the business of Maine and it is not going to be good for you or for me.

There are those who think and probably correctly so that by passing this bill we can devalue the land and that will be the first step, so some people think and claim, in the establishment of a national forest that will extend all the way from northern New York, across Vermont, New Hampshire and Maine. If you think that is what you want, you will vote one way when you vote in the fall. If you care for the people of Maine, the business of Maine and the future of Maine, you are concerned about the economy of Maine and if you want good forestry practices, I hope that when you go back home that you will vote and work in your neighborhood to let the people know what the adverse effects of this measure would be. Thank you very much. I appreciate the opportunity to speak. Thank you.

Subsequently, placed on file.

Expression of Legislative Sentiment recognizing the St. Dominic Regional High School 1996 "We the People" team (HLS 1051)

TABLED - March 25, 1996 (Till Later Today) by Representative BOUFFARD of Lewiston.

PENDING - Passage.

On motion of Representative MITCHELL of Vassalboro, tabled pending passage and specially assigned for Wednesday, March 27, 1996.

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-824) - Minority (4) "Ought to Pass" as amended by Committee Amendment "B" (H-825) - Committee on Education and Cultural Affairs on Bill "An Act Concerning Referendum Reform for School Budgets" (H.P. 657) (L.D. 880)

TABLED - March 25, 1996 (Till Later Today) by Representative AULT of Wayne.

PENDING - Motion of same Representative to accept the Minority "Ought to Pass" as amended by Committee Amendment "B" (H-825) Report.

On motion of Representative MARTIN of Eagle Lake, the Bill and all accompanying papers were indefinitely postponed and sent up for concurrence.

An Act to Make Pet Dealers Liable for the Sale of Dogs and Cats That Have Health Problems (H.P. 53) (L.D. 47) (C. "A" H-779)

TABLED - March 25, 1996 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Passage to be Enacted.

On motion of Representative MITCHELL of Vassalboro, tabled pending passage to be enacted and later today assigned.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the following items which were tabled and today assigned:

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

HOUSE ORDER - Relative to propounding questions to the Justices of the Supreme Judicial Court (Relative to I.B. 6, L.D. 1827) (H.O. 49)
- In House, read on March 25, 1996.
TABLED - March 25, 1996 by TRUE of Fryeburg (Pursuant to House Rule #40)
PENDING - Passage.

Subsequently, the House Order (H.O. 49) was passed and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-832) - Minority (5) "Ought to Pass" as amended by Committee Amendment "B" (H-833) - Committee on Utilities and Energy on Bill "An Act to Provide Public Access to the Information Superhighway through Enhanced Library Telecommunications" (H.P. 618) (L.D. 828)
TABLED - March 25, 1996 by Representative KONTOS of Windham.
PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-832) Report.

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

Representative KONTOS: Mr. Speaker, Men and Women of the House: I urge you to support the Majority "Ought to Pass" Report. This bill, you can tell by its low number was a carryover from last spring. The reason it was carried over was twofold. One, we knew that the PUC was debating a rate case involving NYNEX and secondly, we knew the federal government was making some major decisions about telecommunications policy. We wanted to allow time for both of those issues to develop and allow people to work together to see how the state might begin to respond to each of those.

In the interim, since last spring, when the bill came before the Utilities Committee, which is a bill, in case you aren't familiar with it to provide access to lower rates and technical assistance and some additional funding for equipment to public schools and libraries. If you believe what you heard from your towns, they very much want to be part of this telecommunications network. I suggest to you that without public support of that kind of a statewide endeavor, you will continue to have schools that have the technology and those schools that don't.

Part of the reason that you should be supporting the Majority Report is because it ensures access to schools and public libraries throughout the state. It does so in a couple of ways. One, as you may have read in the newspaper, the NYNEX rate, in the NYNEX rate case, the PUC determined that NYNEX had some 20 million dollars that was over charge, for lack of some technical language. The PUC decided in order to also comply with the public demand for this infrastructure improvement that that 20 million dollars be returned through a fund to the public schools and libraries at the rate of 4 million dollars for a four or five year period. This has widespread support among the libraries and schools obviously and your municipalities who very much want to see these kinds of expansions into the community.

In addition, the amended language is compatible with the federal language that was just passed and most specifically by amendments put on the telecommunications bill by Senator Snowe to create an access fund, which would begin in 1997 and would be created by a surcharge on all telecommunications

providers of one and a half percent. That money is designed to continue to fund these telecommunications expansions into the community. It is probably that piece that distinguishes the Majority Report from the Minority Report.

I am confident that the Majority Report is a bill that you can go home and brag about to your constituents. It is a progressive piece of legislation. It is compatible with the federal law. It allows that state to take this matter into its own hands in a way that gives predictability to the people who are going to be dealing with this technology. It is the right thing to do. You have heard that from chambers of commerce, from science and technology foundations, from the Maine Business Alliance, when it was still separate from the chamber. You have heard it from the Maine Growth Council and businesses small and large. The piece of expansion in terms of infrastructure in this state that they most want to see is telecommunications. What happens then is that you begin to develop this system into your community and everybody benefits.

This is an important issue for educators so that there is another full committee here who ought to be supporting this. It is clearly an important issue in terms of the state's economic development, so there is another committee of jurisdiction that ought to be supporting this. I know there are other speakers who would like to continue to talk about the details of the two reports, but I urge all of you to vote with me in support of the Majority Report. Thank you.

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

Representative TAYLOR: Mr. Speaker, Men and Women of the House: I urge you to vote against the Majority "Ought to Pass" Report as amended by Committee Amendment "A" on this bill on telecommunications. The purpose of this bill is to provide affordable access to the growing communications needs in the inhabited areas of our state. It would be difficult to be against the goals of this bill. My concern is the funding of this program. As before you in the Majority Report, this effort is to be funded by a one and a half percent tax on the gross receipts of NYNEX.

You will hear this type of funding called several things, an assessment, a service fee and on and on. It is a new tax, a gross receipts tax. It is intended that the funds for this program come from the one995 NYNEX rate decision. Whereby, the PUC ruled that NYNEX made too much money and should return the funds to the ratepayers to reduce rates in the future. As part of their decision, they dedicated 20 million dollars to provide for a telecommunications link for all public schools and libraries in the state. These funds were to be used at a rate of 4 million dollars for a period of five years. As structured in the Majority Report, this money will be bled into the program at a rate of one and a half percent for the gross revenues per year. At present, this produces 4.7 million dollars a year. The NYNEX set aside is only 4 million. This produces an extra 3.5 million dollars over the five-year life of the program if you multiply five times the .7 million.

Committee Amendment "A" also provides that in September 1997 all carriers, AT&T, Sprint, MCI and all the small companies, will start being taxed at one and a half percent of their gross revenues, which will produce another 1.7 million dollars a year or

5.6 million dollars over the remainder of the program. Committee "A" does exactly what the PUC intended when they dedicated this 20 million dollars to the telecommunications program. Four million dollars a year for five years. The fact sheet distributed by the utility leadership serves to indicate the lack of understanding of the issues brought before you. If you would look at the sheet, they talk about the Majority Report. Everything in the Minority Report is the same, except the funding. Every activity that is cited here as not being in the Minority Report just shows that people have not done a side-by-side comparison of the two reports.

The second item on the fact sheet talks about singling out NYNEX to pay this when the other telecommunications utilities don't have to pay it. That is because NYNEX is the only one that had the excess profit. This is just a return to you of funds NYNEX had collected that the PUC has decided that should come back. There are no excess profits in the other companies. They haven't had a rate hearing on it. There is absolutely no justification for them being involved in this funding.

Probably most of you have received a call from your local librarians asking you to vote for the Majority Report. With all do respect of the bill's sponsors, this is a pure lack of understanding of the Minority Report. There is no difference in the Majority and Minority Reports except the funding language. The Minority Report will provide 4 million dollars for five years or 20 million dollars. That is what the fiscal note on the Majority Report will allow to be spent. Both reports only allow 4 million dollars a year to be spent.

If you vote for the Majority Report, you will be overfunding this project by 9.1 million dollars. Both reports call for the termination of the project in five years. The project will come back for evaluation. We even had to put something in both reports, which will decide what to do with the money if it isn't all spent. I would ask you to look closely at the Minority Report and support it. It will fund this program exactly as the PUC envisioned it. The Majority Report will overfund it by 9.1 million dollars in a five-year period. Please vote no on the Majority Report and support the Minority Report. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eliot, Representative Marshall.

Representative MARSHALL: Mr. Speaker, Colleagues of the House: I would like to add one more little thing to this. I think it is wonderful that we want to hook up our schools and libraries. It is a very commendable thing to do. I think it is probably a correct thing to do that a company that overcharges in a monopoly situation would have to pay back that which it overcharges. As far as funding this project, I think if we looked at this a little closer and kept our ears open and listened to what the industry is doing, right now, we would find out that it is already 20 million dollars overfunded, because one of these large corporations is already providing this service for libraries and schools for free. Why are we spending another 20 million dollars?

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

Representative TREAT: Mr. Speaker, Men and Women of the House: Maine is often called the "two Maines." I have been hearing this for decades. We keep thinking that we are going to get beyond the

"two Maines" and we are going to have one Maine that has the same economic development opportunities and same job opportunities from one end of the state to another. There is little that offers more promise to actually bridging the gaps between the "two Maines" than our telecommunications technology. For example, the internet, which most people, I think, are familiar with. Internet access provides the possibility that a very small community, for example, the community of Vinalhaven can access information the world over from one library terminal. A library that has a town with a population of several hundred people in the winter that simply doesn't have the ability to access those materials in its library under permanent connection. Yet, someone coming into that library can access the world. Indeed, in Vinalhaven, which is a test site for the NYNEX program that has been described briefly by Representative Taylor.

I have some information about how it is being used by fishermen on that island. The librarian from the Vinalhaven Public Library has written to me saying, "My husband is a lobsterman. He saw no use at all for this technology in regard to the island fishermen. He came in looking for a lead on a digitalized map that he needed for a piece of his equipment. I found a dealer in Virginia with a page on their World Wide Web who had a cartridge he needed, so he did see the positive use. We do a daily posting of the hurricane probability down at the fishing co-op. The fishermen check this daily and adjust the time out fishing accordingly. This has had a major impact on the fishing industry on the island, which points to the economic development and job impact of this."

It is true that both bills do provide for authority for the Public Utilities Commission to take steps to provide internet access throughout the State of Maine through schools and libraries. There are big differences between the two bills. I am going to take a little time to explain what those are. The Majority Report establishes an access fund that applies to all telecommunications carriers in a fair way. It does not single out one carrier because that carrier happens to be before the PUC in a proceeding this year. What it does is it says, "We will authorize what the PUC did to that one carrier, NYNEX, but we will also give the PUC authority to do something similar with all other carriers along as it is done in a competitively neutral fashion, that is a fair fashion, based on what the revenues of those companies are, a proportionate share of the market place, as long as the amount spent does not exceed the 1.5 percent of interstate revenues. We will provide that any funds sent by these companies can be credited against requirements that are there in law now in the federal telecommunications bill to provide access to a universal access fund."

The big difference here is that what was required on NYNEX and what would be allowed to be required of all the other carriers operating here in Maine is that they distribute not only to discounted rates for schools and libraries, but that they also provide equipment and training. Equipment and training are not provided for in the Federal Telecommunications Act. The act says that all carriers must provide discounted rates. There is nothing in this law in this bill that would require more money coming from any of those telecommunications carriers than what is required now under federal law.

What it would do is give the PUC the authority to take that same dollar amount and have it used for equipment and for training. Why is this important? The good Representative from Eliot, Representative Marshall mentioned a company that is offering "free internet service." Well, it is fine to get free service, but you need equipment to connect up with that. You need training to know what you are doing. When this whole proposal came before the PUC dealing with NYNEX only, of course, the librarians and schools were very excited and they were quite supportive of it.

I was involved in some of their meetings in terms of discussing this whole thing. The one area that they were very, very worried about was training. They knew that if this equipment was put in place and nobody knew how to use it, it would be completely useless. What the Majority Report does is it says that we are going to take dollars that are going to be sent anyway, but we are going to use those dollars in the most efficient, cost effective and sensible manner. We are going to integrate all of the funds that are going to be required to be sent by federal law, right now under the Olympia Snowe amendment, that is where this came from, our own Senator wrote the amendment that required all telecommunications carriers to provide discounted rates. The Majority Report says that we are going to take that and integrate it in with what the PUC has already done in the NYNEX proceedings. We are going to make it fair to all telecommunications carriers. We are going to ensure that equipment is available as well as rate discounts and training.

It doesn't make sense to have two different proceedings. One dealing with NYNEX and one everybody else. It does make sense to put the two together. This bill also and these provisions are also in the Minority Report, but I want to mention them because I think they would give some comfort level to people who have concerns about the Majority Report.

The Majority Report requires the PUC to come back to the Legislature on an annual basis. Reporting on how much money is being spent, setting bench marks for achieving progress across the state in providing affordable access to the internet in every community of this state. They are going to look at the impact of the federal law and make recommendations as to its changes that need to be made to integrate federal and state laws and to make things work better. As was mentioned earlier, there is a sunset on this to give the Legislature a second look in five years time to see whether or not we want to continue this program.

The Majority Report makes a lot of sense. Just because NYNEX happened to be before the PUC doesn't mean it makes sense to put the entire burden on them. This is a sensible approach. It is very strongly supported by schools and libraries throughout the state. I think they do know what they are doing. I have rarely met a group of people who were more informed on anything. I say this partly, I suppose, because my mother is a librarian and so I have a familiar connection there. She rarely is wrong, but they do know what they are talking about. They do know what the difference is between the Majority Report and the Minority Report. There is a difference and I hope that you will support the Majority Report so that we can move toward having really affordable access to the internet for everybody in this state. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eliot, Representative Marshall.

Representative MARSHALL: Mr. Speaker, Colleagues of the House: I didn't want to have to get up again, but it was brought up that the company that is supplying the access was not supplying the material, equipment and training. I was told that they were, in fact, supplying the equipment and I do believe the training. When it comes to training on computers and those are sharp ones on computers around your school, I think I could almost guarantee that if you looked around a little bit and dug in the classrooms and in the computer labs, you are going to find a one5-year-old kid in the corner someplace that is probably the best trainer there anyway. It is funny how he figured it out when nobody else could.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: This is a difficult issue to stand up and appear to be opposed to. It is kind of like a motherhood-and-apple-pie issue. I don't think there is anybody in this room that could seriously say that they were opposed to the computer systems that we are talking about putting in our schools and libraries. The fact of the matter is that is the future of our country and the future of our children and it is the future security of our children. That doesn't mean that we go treat a group of people completely unfair because we need this to happen.

The NYNEX rate case, as has been stated before, provided 20 million dollars to schools and libraries. Privately, some of the folks that testified before our committee have said that is more than enough. We don't know what we are going to do with that amount of money. They didn't dare to say that to the committee. Privately they have told us that. That is kind of beside the point. If we go with the Majority Report, instead of 20 million dollars we will have somewhere in the neighborhood of 30 million dollars.

It was said that it is not fair to place all the burden on NYNEX. I agree with that except that this will not make any burden on NYNEX. Regardless of which report passes, the NYNEX burden will be 20 million dollars. I have no problem with that. The PUC fund found NYNEX to be guilty of overcharging. They returned some of the money through reduced rates and the 20 million dollars was to be set aside. I have no problem with that. Somebody decided that here is an opportunity to get 10 million more. That is an analogy of me driving home tonight, getting stopped for speeding and making the assumption that everybody in this room speeds, so we are going to charge them all. In my mind, this is what this amounts to.

None of these other companies has been found to have been overcharging anybody. They are not guilty of anything. NYNEX went through a rate case and was to have overcharged. That is history. We know it happened. Nobody has an argument with that. Twenty million dollars is a lot of money when you stop and think about buying computers for our schools and libraries. When you buy on a volume basis, that is a tremendous number. It is a huge amount of equipment that we can buy, especially when you think about the fact that many libraries and schools around the state already have a lot of this equipment. Twenty million dollars will buy a tremendous amount. To just increase this to 30 million dollars just doesn't make

any sense to me. A tax by any other name is still a tax. That one and a half percent of the gross receipts of all those other businesses is, as far as I am concerned, an unfair tax.

The 20 million dollars is a tremendous amount of money and I absolutely support what we are doing on the 20 million dollars. That is the basis of the difference between the two. There is nobody on that committee that is opposed to the money being spent for our schools and libraries. None of us wants to appear to be opposed to motherhood and apple pie, but that is what this comes down to. I urge you to defeat the pending motion so we can go ahead and do what the PUC said was appropriate, not for us to make a decision here without all of the facts that the PUC had when they went through the process that they went through to make the decision and not hold all these other companies accountable for what NYNEX did. Again, I emphasize, this is not putting an unfair burden on NYNEX because if we take 20 million dollars or 50 million dollars from these other companies, NYNEX is still going to pay 20 million. It does not increase or reduce the burden on NYNEX. Thank you.

On motion of Representative MITCHELL of Vassalboro, tabled pending the motion of Representative KONTOS of Windham to accept the Majority **"Ought to Pass"** as amended by Committee Amendment "A" (H-832) Report and later today assigned.

On motion of Representative CARR of Hermon, the House recessed until 3:00 p.m.

(After Recess)

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

HOUSE DIVIDED REPORT - Majority (8) **"Ought to Pass"** as amended by Committee Amendment "A" (H-832) - Minority (5) **"Ought to Pass"** as amended by Committee Amendment "B" (H-833) - Committee on Utilities and Energy on Bill "An Act to Provide Public Access to the Information Superhighway through Enhanced Library Telecommunications" (H.P. 618) (L.D. 828) which was tabled by Representative MITCHELL of Vassalboro pending the motion of Representative KONTOS of Windham to accept the Majority **"Ought to Pass"** as amended by Committee Amendment "A" (H-832) Report.

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

Representative KONTOS: Mr. Speaker, Men and Women of the House: To recap from where we were this morning. The bill before you L.D. 828 was carried over from last spring. I might note, contrary to what I think some of the remarks this morning may have indicated, the bill was heard before the committee well before the NYNEX rate case was dealt with at the PUC. The two happened to coincide in the interim. One was not dependent on the other initially when the committee heard that report.

The bill creates policy language on which the statutes are currently silent, in terms of telecommunications access to communities in terms of their public schools and libraries. Secondly, it

creates PUC authority in statute to create the funding mechanism for the settlement of the NYNEX case. Thirdly, it establishes an access fund for future appropriations to a fund at the rate of one and a half percent on all telecommunications providers. It allows for a report and a retroactivity day.

It is important for me to put on the record a correction in some of the information that you heard from one of the folks who signed the Minority Report who spoke this morning. It was suggested that the amount of money being discussed in terms of the NYNEX case was a kind of penalty or a forfeiture. That is not true. The 20 million dollars was derived, in fact, because NYNEX had surplus revenues because of their own good business. Those were cost savings. It is important for you to understand where that particular amount of money came from. I don't want the company or the PUC's decision to be interpreted incorrectly by members of this body.

Secondly, it is important for you to remember the difference in the Minority and Majority Reports, which you have heard debated this morning. It had to do with that access account or access fund. You need to understand that that mechanism for funding is identical to the one currently in place to fund the PUC and the Public Advocate. Some folks have chosen to call it something other than a surcharge. I believe that is inappropriate. It is, in fact, a surcharge on the telecommunication providers, none of whom testified in opposition before the committee when we worked the bill this winter.

Finally, the bill represented in the Majority Report is supported by the Public Advocate, the PUC and the State Planning Office because they realize, as I hope you do, the importance of this public policy language, this funding mechanism and our obligation to prevent this disproportionate use of technologies in our community. Absent a funding mechanism, like the surcharge on providers to create this access fund, in addition to the NYNEX money, you have put some communities at risk, in the judgment of many others. We don't want to be party to the have-and-have-not debate, which sometimes has been part of our issues in this body. Once again, I urge you to support the Majority Report and I thank you.

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

Representative TAYLOR: Mr. Speaker, Men and Women of the House: I don't believe you want either side to completely repeat its testimony. I do hope that you had time to compare the two reports in this last break. I would just like to innumerate some of the facts. The text of Amendment "B" or the Minority Report is word for word the same as for Amendment "A," except for the funding. Provisions for training, provisions for providing equipment are exactly the same in both proposals. The report back to the Utilities and Energy Committee by the PUC on the progress of the program is exactly the same. The beginning, the end and all dates in the program are exactly the same. The compatibility of the federal regulations is exactly the same. The funding in the Minority Report is for the 20 million dollars or 4 million dollars a year for five years as resulting from the NYNEX case. This is exactly what the commission proposed when they dedicated the NYNEX refund to this telecommunications project.

The fiscal note in the Majority Report caps spending at 4 million dollars a year. Any more will

set in the new fund that cannot be spent. The fiscal note is only for the one year, but the proposal from the commission to the office writing the fiscal note was that the 4 million dollars would be adequate. As structured in "A," there will be an excess of 9 million dollars accumulated over five years that cannot be spent. Please vote no on the pending matter and later support the Minority Report. Thank you.

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

Representative HEESCHEN: Mr. Speaker, Members of the House: First, I should note that the two reports are not identical except for the funding source. The Majority Report makes it clear that the funding source is initially the NYNEX settlement plus the assessment that all telecommunication carriers who are offering telecommunications service will provide the services including instructions and equipment. The Minority Report, which I urge you to reject limits the requirement to provide services, instruction and equipment effectively, only to NYNEX. Any other carrier who actually does provide the services is under no obligation to provide any equipment or instruction. It is only when they reach a certain threshold, which effectively, is NYNEX, that they would be required to do that.

I should also note that early on it was said that we were told that the 4 million dollars a year is way too much money. We don't know what to do with it. I attended, as a member of the committee for both years, the public hearing last year, the work sessions last year, the work sessions this year and no one, at least in the committee, has ever said and no one has come to me outside of the committee and told me, we don't know what to do with 4 million dollars a year, that is way too much money. I question whether they are only telling new members of the committee this.

As Representative Kontos has pointed out, the federal telecommunications act specifically enables states to set up a mechanism to fund these kinds of programs and directs us to do so. They will offset the already required assessment for universal service. The mechanism is nothing strange. It is something that we are going to need to do. We should be anticipating that federal legislation and doing it on our terms. I think we will be doing it that way with this bill. It is clear that in the long run, these services are not going to be funded by temporary surpluses like we had here in this case or by fines, which Representative Kontos made clear that this isn't a fine. It is going to be on an ongoing basis, an assessment from the utilities involved. Make no mistake, telecommunications is going to be big business and it will be fully worth the while of all the providers to participate in this program and not drag their feet.

I do urge you to accept the Majority "Ought to Pass" Report.

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

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

The SPEAKER: The Representative may pose her question.

Representative CHASE: Thank you. To any member, would someone be able to explain to me what the role of the federal requirements is in this bill from the point of view of either the Majority or the Minority

Report? I believe it was referred to this morning, when we were first discussing the bill. I did hear and understand the argument that we are not to assess other companies other than NYNEX, yet someone referred to the fact that there is some federal requirement. I may have misheard, but if the question makes any sense, I would appreciate it being addressed. Thank you.

The SPEAKER: The Representative from China, Representative Chase has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Adams.

Representative ADAMS: Mr. Speaker, Men and Women of the House: The answer to the question posed by my friend, Representative Chase, I am holding in front of me the executive summary to the key provisions of the Telecommunications Act 1996, provided to me by the FCC itself. In as much as we are going to be able to eat of this meal at one sitting, I will read to you right at the moment. This huge document, double spaced, minutely printed, brings to your questions these particular answers.

Under the universal service section made by the FCC, the FCC says plainly that it will expand the definition of universal service for schools, libraries and rural health providers. A thing that our bill does not do. States must discount services for these providers, which are included now in the definition of universal service. The carriers will be entitled to reimbursement from the appropriate universal service fund.

Secondly, under advanced telecommunication incentives, which is section 706 of the bill, the FCC says, "All states must encourage the deployment of advanced telecommunications services, particularly to schools and libraries on a reasonable and timely basis through price cap regulations. Through forbearance," which is utility talk for not making rules about it "and for measures to facilitate competition and to remove all barriers to infrastructure investments." In English, all that stuff I just read to you says that from now on the feds have preempted any rules or any laws of any state nature that prevents everybody from competing on a level basis and prevents everybody from using each others equipment for that matter and is stricken down about six years worth of regulatory policy that have made the world the way we know it with telephones over here, television over there, cable in a third place and telegraphs way off to the side. It means that all of these people are now on an equal footing. They can all use each others equipment. All of them have access to the same monies. All of them can do the same things. That is what we are talking about today. That is the basis for what we are doing in that citation for what we are doing. It is entertaining reading in the evenings, I assure you. Thank you.

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

Representative STONE: Mr. Speaker, Ladies and Gentlemen of the House: This issue has obviously been discussed for quite a while now and I guess it is time to get right to the meat of it. The Majority Report gives a state agency the ability to collect more funds than they have decided that they need. Nobody has shown that they need more than the 4 million dollars that they will get from NYNEX a year for five years to this date. What we are talking

about, the Majority Report, will initiate a one and a half percent tax on a new industry that hasn't even started and isn't scheduled to start until 1997 without a need for it at this point.

The Minority Report continues to use the 4 million dollars a year for five years and doesn't add a tax. That is the major difference between the two bills. The good Representative Kontos this morning said that if we vote for the Majority Report, it is something we will be proud of and something we can go home and discuss with everybody and be proud that we voted for it. I voted for the Minority Report because I won't be proud to go home and say that we added a one and a half percent tax to an industry that hasn't begun in the State of Maine. I will be proud to go home and say that I have given 4 million dollars a year to the expansion of telecommunications without adding a new tax because nobody has shown me a need for an increase in revenues. Thank you.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I feel I must respond to some of the discussion that has preceded my comments here, right now. The one and a half percent that everyone is fixing on that is in the Majority Report was put into the Majority Report to cap what the PUC can require of any carrier in the State of Maine. I want to repeat that. It is intended as a cap on what the PUC can require any carrier in the State of Maine to contribute toward schools and libraries.

In the federal law, because of an amendment put on by our own Senator Snowe, who is very sensitive, as we are to the problems of rural schools and libraries, in particular, the federal law requires all telecommunication carriers, not just NYNEX, to provide free or discounted rates to schools and libraries upon demand. That is a program that will be implemented by the PUC. You can call it a new tax. You can call it a surcharge. You can call it whatever you want. It is going to be payment of money by all telecommunication carriers for the purposes of reducing rates of schools and libraries. There is no cap on that.

What the Majority Report does is it simply says that we are going to integrate, put together and combine the federal law requirements, which are new requirements of new monies that these companies are going to have to put up. We are going to integrate those requirements with what the PUC has already required of NYNEX. We are going to do it in a manner that caps what any one company can be required to pay. Again, a cap which is not in the federal law. That is something good for the companies that is not going to be there if you don't pass the Majority Report.

Secondly, the Majority Report says that we think it is important that equipment and training be part of what these carriers pay for. We are not going to make the carriers pay more money. We are going to use the money in somewhat different ways to provide a better service, economy and efficiency to the people of the State of Maine. The statement was made those many hours ago in our previous debate that all we need to do is find some school child who knows a great deal about computers and that will solve all our training problems.

I want to read to you something that was part of a speech made by the librarians for the City of Scarborough concerning the need for training. When

the PUC decided to consider this NYNEX proposal, there were several test sites around the state that had the opportunity to be sort of the first ones on the block to find out how this whole thing worked. Scarborough Library was one of the test sites. I was privileged to be able to go to a conference where the different librarians from schools and libraries talked about their experiences. Uniformly, they were very excited about the opportunities that were presented by having access to this equipment and this service. The Scarborough librarian had a lot of concerns too. The concerns primarily were around training and the fact that nobody knew how to use the equipment.

I am just going to read a little bit of what she said. Looking back, this is a test case and she is trying to give advice about how to run this in the future. It was advice that the PUC took in crafting their NYNEX order and that the Majority Report took in crafting what the Majority Report is. She says, "We should have demanded some time to sit down with NYNEX in order to analyze our equipment and plan out who we wanted to use this software that was loaded into our file service. We should have taken a day with this group and asked who was going to manage it. Who was going to train us? How were we going to pay for the additional cost this may generate? We did experience additional costs. Talking to other librarians, who on your staff understands how computers work? Is that person available? Who knows how a hard drive is organized? What is a directory? How to configure a file? What is an INI file? Do you know what it is? Do all of your staff know Windows? Can they open multiple Windows? Can they use them? Can they save file to directory? End user training, you cannot provide enough."

It is really important if we are going to be making companies pony up money to help schools and libraries and by extension, all of our communities in the State of Maine have access to this very important educational and economic development tool. It is very important that we don't waste that money and have terminals stuck all over the State of Maine which people don't know how to use. That is a waste of our money and a waste of ratepayer money and it is waste of company money. What the Majority Report does is it says that we don't want to do that. It says that we want to make sure that we have a sensible policy, number one, and we have good ways of implementing it. We are not wasting money. It does not invoke additional taxes on anybody. These companies are going to be paying. They are either going to pay under federal law or under state law. The difference is how do we use that money and can we do it in a way that is integrated with sort of a vision of where the state is going on telecommunications.

We could be at the forefront of this country on this issue. We can be. This bill will put us there. This is our opportunity. I strongly encourage you to vote for the Majority Report. Thank you.

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

Representative TAYLOR: Mr. Speaker, Ladies and Gentlemen of the House: I will try to keep this short. I had hoped to avoid reading from the actual bill, but on page 2 of Committee Amendment "B," Section 1, paragraph B, "Require a local exchange carrier serving more than 100,000 lines to provide

funds for qualified libraries and schools to obtain telecommunications services, including instruction and equipment related to such services, from other vendors if the provision of such services is found by the commission to be consistent with the policies described in this section." That means that any of the several dozen small companies in Maine that are not going to be tapped for funds can be subsidized with the money from NYNEX. This is the same paragraph that is in the Majority Report. The funds are there. The training is there.

I would also refer you to the fiscal note on page 5, which sets up the telecommunications fund at 4 million dollars regardless of the amount of money being raised. That is all that can be spent, 4 million dollars according to the people in the Finance Office that developed these fiscal notes. They have on the commission the intent that the 4 million dollars will be adequate for the next five years. There is a cap. It is met by the funds from NYNEX. There is no need for the one and a half percent. If the federal regulations come in and require that, then money spent in this program will be offset or credited. We think that Committee Amendment "B" does everything that is necessary to put the state into a first-class telecommunications project. I would urge your support of that and defeat of the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative O'Neal.

Representative O'NEAL: Mr. Speaker, Men and Women of the House: L.D. 828 in the Majority Report brings Maine into compliance with the Federal Telecommunications Act of 1996 by requiring all telecommunication carriers to provide services or programs of telecommunication access to the libraries and schools. This also, as someone mentioned before, none of the people that appeared before our committee spoke against this. As someone that works for a cable company, I have been in contact with them. They feel that they are willing to pay their share and they feel everyone else should too. As I said, nobody spoke against the Majority Report in our committee.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: Rarely do you get to hear a Divided Report from the Utilities Committee debated on the floor. I guess you can see the reason why. We try to keep that cat in the bag because it is extremely complicated stuff. I say the best analogy for the position we find ourselves in right now is that we have in the yard a really fine cart. We have yet to buy the horses for it. We are arguing about what kind to get. The cart easily can be compared to our new fiber optics system. It stretches all throughout the State of Maine on a long spine that goes from Kittery to Presque Isle and reaching northward every year. The best in the United States. It is second to none. It is part of an economic development that you hear spoken about in all manner of bills from every committee that deals with that subject. It is the finest in the United States today because this was a place they figured being rural in nature was the best place to try that.

I would point out that that opens up to us an exciting opportunity. That is why at all the public hearings we had on the bill last year, no one rose to speak in opposition to the two bills that eventually

became one bill, the one that we are talking about now. It was always a matter of how to do it, not if. That should mean something because that means it is 100 percent supported by both those who pay in and those who intend to take out. It shouldn't surprise you that those who intend to take out and therefore support it, include the Maine Library Association and all 740 of the public schools that operate in the State of Maine. It shouldn't surprise you that it is supported by the regulators, the Public Utilities Commission, the Public Advocates Office, and the State Planning Office.

What should surprise you and what is most significant is that it is also in the Majority Report supported by all those who are going to be expected to pony the money up. All the payers testified in favor of the report that is now in front of you. That means the giants of AT&T as well as the little folks called the Telephone Association of Maine. It represents about 20 or 24 little small telephone companies that serve you and I all across the state. That means supporting the bill. It includes the China Telephone Company, the West Penobscot Tel and Tel, The Hartland and St. Albans Telephone Company. They came to us and said that this is good. We wish to pay in so that we can play when the game does start. That is because the law is going to affect them anyway.

That deadly dull piece of paper I picked up and tried to find some relevant quotes to for Representative Chase is an earthquake. It shook underneath our seat and changed everything you and I know about how we watch TV and what is going to happen when we pick up the phone. It did so in some of the driest language on earth. It is going to change totally everything you and I think we know about where we get things that arrive on electricity. That is why even the smallest telephone company is in favor of the majority bill. Federal law is going to sock it to these guys anyway. Everyone of them told us they would rather have us, the State of Maine, pass any assessment, which the feds allow us to do and spend it the way we think it should be spent rather than leave it open to federal rulemaking, which will take place over the next 30 months beyond the lives of this Legislature and of the next Legislature and into the life of the one beyond that.

Therefore, these folks would rather have a cap at a small rate that gives them some latitude now. That latitude I would tell you is written in by Senator Snowe, who is the sponsor of this bill, agreed to by Newt Gingrich and signed by President Clinton. You are never going to get the stars and planets lined up like that again on an issue so complicated as this. Anything those providers put into this famous state fund that you are hearing about can be written off on their federal assessment. That means Maine money from Maine people go into a Maine fund for Maine purposes for Maine schools and libraries to figure out how to get the best deals from people they are used to dealing with here in Maine. If you would prefer to send that off to the FCC thirty months off, you can do it, but I think it would be a grave mistake.

I would point out that that 20 million dollars you hear about flying around is never going to exist in the bank all at one moment. That 4 million dollars a year is never going to exist in the bank all at one moment. It is going to be set in piece by piece by

piece as time goes on. Of that total 20 million, by law, only \$500,000 over five years can be spent, it is my understanding for equipment purchases. It is not like folks are going to be rushing down the K-Mart with wads of money to spend half hazardedly. That is going to be a very tough go to provide for 1,200 Maine schools and libraries with so little money. That is all there is going to be, because it is the connection and the phone lines that do all the costing.

It is amazing to me that so many things lining up in place all at once, finally produces a result that results in a Majority and Minority Report, especially since all those people who are going to be paying and all those people who are going to be playing, both agree with the stakes and both want the same outcome. It is a matter of philosophy, I suppose, my philosophy is if we get all the Maine folks in agreement with the federal folks, then that is what we should do.

You and I know that we were born in the age of the telephone. It was the buggy-whip days of telecommunications. All that has changed. Our kids are going to be masters of a new world that you and I can barely glimpse and can hardly understand even now. Just because it is confusing to you and I doesn't mean that it is going to be so for our kids, it is not. There is no reason for the State of Maine to ride in the caboose on the telecommunications train just because a few people say that we are a tiny place. We are rural and scattered. We have a poor populations. We are tiny and we should wait for the feds to tell us what we have to do. We are perfectly positioned to do exactly what the feds will allow us to do. It seems to me that we have had enough of that old kind of talk. Maine has kept last place in line for years. We no longer have to be there. We have the providers who are willing to help us. We have the receivers willing to do the work and all of this is happening at the same time that the money, for the first time in our history, is there. Never are we going to have that chance again.

If you wish the feds to dictate the direction, duration and the results of that chance, then you vote for the Minority Report. If you want Maine providers, Maine schools, Maine libraries and the Maine PUC to have their say in how it all comes out, then you will vote for the Minority Report, which in either case is sunset in five years and then comes back to the table again.

Mr. Speaker, because of the importance of this item, I request a roll call.

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

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Taylor. 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 TAYLOR: Mr. Speaker, Men and Women of the House: Just two very quick points. My apologies to the House. Last fall we had a referendum, "Do you favor a 15 million dollar bond issue to fund local telecommunications infrastructure and classroom technology equipment to enhance interactive telecommunications capabilities and student learning opportunities in the state schools?" That passed by an overwhelming majority.

It was 15 million dollars. This is not the only funds. We are adding 20 million dollars to that. There is no concern on either of these amendments that this program is not going forward. Everybody in the Utilities Committee is for this program. As far as why people might not have testified against this, as far as other alternatives, companies will recover in rates from other sectors of their business any expense that they incur on telecommunications for schools. I don't believe they would be in opposition to it. Please vote no on the pending motion. Thank you.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: A slight correction to my good friend, the Representative from Cumberland, Representative Taylor. The ballot initiative last fall for 15 million dollars was totally for interactive television hook-ups to 200 schools yet to be chosen around the state. It has nothing to do with hooking up to the internet or opportunities to talk to between schools, libraries and educational centers by computer. It is for live contact with live television between 200 sites yet to be chosen. In fact, it shows the level of confusion about the new world you and I have got to face. It sounds like something that we are talking about today in this bill, but it is actually something else quite different. It is what you and I like geezers in the technological revolution as armadillos wandering down the middle of the information highway have got to get use to because our kids are going to be whizzing by us using both these separate things. As interesting as the comments are from our good friend the Representative from Cumberland, they don't necessarily apply to this bill before us today. I would encourage you to vote yes on L.D. 828 on the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Taylor. Having spoken three times now requests unanimous consent to address the House a fourth time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative TAYLOR: Mr. Speaker, Men and Women of the House: The resolution uses the word telecommunications. Thank you.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for this going on so long. It is really not necessary, but you heard earlier that the small telecommunications companies supported this. They support the cap. If that was all this did was put the cap on in the event we need the money, I wouldn't have a problem with it. To say they support, please come take my money, that is slightly misleading. I think it is important that you know that nobody, nobody came before our committee and said, "It is going to take X number of millions of dollars to accomplish what we need to accomplish." We don't know if it is going to take 20 million dollars or 200 million dollars. All we have heard is opinions. We don't know what the outlying school districts need or what it is going to cost to give it to them. Until we know that, I think it is grossly unfair to take 2 million dollars a year away from companies who didn't overcharge the public, which is where this thing started.

I think it is important that you don't forget where this whole thing started was an overcharge by NYNEX to the public. It was a rate case settlement and 20 million dollars was earmarked for equipment for schools and libraries and we absolutely support that, but to use this vehicle to take other money away from somebody else, we don't support. I urge you to vote against the motion.

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 accept the Majority "Ought to Pass" Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 334

YEA - Adams, Ahearne, Benedikt, Berry, Birney, Bouffard, Brennan, Bunker, Carr, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gould, Green, Hatch, Heesch, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Look, Luther, Madore, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Perkins, Poirier, Pouliot, Povich, Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Strout, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Volenik, Watson, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Bigl, Buck, Cameron, Campbell, Carleton, Chick, Clukey, Cross, Damren, Dexter, DiPietro, Donnelly, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Lemont, Libby JD; Lindahl, Lovett, Lumbra, Marshall, Marvin, Murphy, Nass, Ott, Peavey, Pendleton, Pinkham, Poulin, Reed, G.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Taylor, True, Tufts, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

ABSENT - Dunn, Libby JL; Nickerson, Plowman, Reed, W.; Truman.

Yes, 84; No, 61; Absent, 6; Excused, 0.

84 having voted in the affirmative and 61 voted in the negative, with 6 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-832) 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-832) and sent up for concurrence.

Bill "An Act to Ensure That Basic Health Care Needs of Women Are Covered in Insurance Policies" (H.P. 976) (L.D. 1385)

TABLED - March 25, 1996 by Representative LUMBRA of Bangor.

PENDING - Adoption of House Amendment "D" (H-822) to Committee Amendment "A" (H-707)

Representative LUMBRA of Bangor requested a roll call on adoption of House Amendment "D" (H-822) to Committee Amendment "A" (H-707).

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: Now that we have determined that we are not talking about the Penobscot County Budget, could someone explain House Amendment "D" to Committee Amendment "A" and how it changes the bill?

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 Bath, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: In answer to Representative Martin's question, House Amendment "D" consolidates the various amendments that have been put on that bill since it started this process. The amendment clarifies, as I said yesterday, that the annual women's health exams allowed by this bill can be done by a certified nurse practitioner or certified nurse midwife. This will assure that providers in two of Maine's important health care resources, rural health centers and family planning centers will provide these services.

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. To anybody who could answer on the committee, is this another mandate and if it is, has anybody figured out how much this is going to increase the cost of providing health care?

The SPEAKER: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bath, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: In response to Representative Waterhouse's question, if my memory serves me correctly, we have been at this for two sessions really. There is no fiscal note. It is being done by the largest insurance carrier in the state, that being Blue Cross and Blue Shield. They are allowing a once a year out of network for all of their group plans. It is a mandate. I can't say that it isn't because there will be some plans that have not in the past carried it. Overwhelmingly everyone that appeared before our committee felt that it was a good situation and that is why there is a Majority Report on it.

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

Representative LUMBRA: Mr. Speaker, Men and Women of the House: Representative Mayo is correct that there won't be a fiscal note, but there will be an increase in the insurance premiums. We were given that information. Also, to take you back, there have been four or five amendments. I just want you to know that the original bill that was passed in the House, under the hammer, I believe, said that a woman

could choose her OB-GYN as primary care physician, if the OB-GYN was willing to meet the criteria also, a pap smear would be mandated as a covered service. Also, a woman could choose to self-refer one time outside of her primary care physician per year. This amendment expands that to a referral to a nurse practitioner and a certified nurse midwife. Thank you.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House: Here we go again, passing another mandate. One could make a good case for why all these services should be included as mandated coverage or benefits along with the 22 or more we passed last session. Maybe somebody could refresh my memory on that. Now here lies the dilemma that we have. We already have all these other mandates, so why not this one and another one and another one. We say that we would like everybody to have access to health care, but each time we pass a mandated benefit it increases the cost of health care that small businesses provide for their employees.

I am reading from a study made in June of 1992. It was made by a Mandated Benefit Advisory Commission. They said, "Mandates intrude on employee management relations imposing benefits that might not be wanted or needed." Why dictate Cadillac care when employers and employees want and can only afford a Chevrolet? Mandates increase the total cost of health care making health insurance less affordable and contributing to the growth in the number of uninsured. For example, a 1985 study by the Natural Federation of Independent Business found that the probability of their small firm would not provide health coverage to its employees, increased 1.5 percent for each mandate enacted. Mandates encourage larger employers to self-insure and escapes state regulation entirely. It has been said and will be again that these mandates save money. I've not seen any data that supports that claim.

The Maine Health Care Reform Commission's final report on recommendations for health, fitness and reform and one of the proposals recommended for consideration, "An act to establish a special mandated review commission." If we are all serious about universal health care access and I hope we are, we are all Maine citizens, we should curtail passing any more mandated benefits, which make health care coverage unavailable for those businesses now providing coverage and out of reach for those that would like to provide such coverage to its employees. We should take another look at the commission's suggestion at mandating benefits and maybe making them mandated options. Please, ladies and gentlemen of the House, however worthy this service is for coverage, take another look and vote no on yet another mandate that will put universal access out of reach for Maine citizens.

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

Representative CHASE: Mr. Speaker, Men and Women of the House: The issue of mandates in health insurance is one that is on the minds of the members of the Banking and Insurance Committee constantly. However, this bill is a different sort of mandate. This bill does not require, as do some other bills that have been hotly discussed by our committee, a new service to be provided. The real issue with this

bill is not a mandated new service, but the issue of the gatekeeper and managed care. What we heard from representatives of the health care industry is that the single most frequently heard complaint about managed care was from women who could not see the physician of their choice for specifically gynecological services. That means my family doctor is male and frankly, I am more comfortable seeing a woman for gynecological care. It is about that simple.

What the original bill does is requires or mandates, but we are not talking about a money issue here. Three things, one, that coverage be provided for screening pap smears, which is provided by, I believe, virtually every insurance company in the State of Maine. Two, this is an important one, it is another requirement that the plans must allow a patient to select an OB-GYN as a primary care provider, if that OB-GYN meets the credential requirements and is accepted by the plan. It is my primary care physician, need not be someone called a family doctor, but maybe someone called an OB-GYN. The third thing is that these managed care plans must allow a woman to receive her annual exam out-of-network, if the woman's OB-GYN is not in-network. That is a mandate. It does not require more money because the annual exam would be performed anyway simply by someone in the plan.

The real issue with this bill was how do we respect the limitations of managed care that is to say, the gatekeeper concept and also allow women to be appropriately served in the area of the most personal health care that one can receive. The amendment that is now being added to the bill as Representative Mayo has explained includes certified nurse practitioner or a certified nurse midwife. It also does one other thing in difference to the health insurance industry, it limits the care that is received out-of-network, that is if you see your OB-GYN out-of-network and a problem arises, your carrier may require you to go back to your gatekeeper before continuing care. I think that is an appropriate limitation. It does respect the notion of the gatekeeper, which is one of the main points of managed care. I respectfully urge you to vote yes on the pending motion.

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. Earlier I heard the Representative from Bangor say that this would increase the cost of some health care plans. Are you saying that this is not the case.

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

Representative CHASE: Mr. Speaker, Men and Women of the House: I could not tell you that this will increase the cost of care. I could not tell you by how much. If anyone else on the committee is able to do so, I would respectfully defer to them.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Mr. Speaker, Men and Women of the House: Not serving on that committee, but I think I do have the answer. I think it was under 10 cents was the estimated number for the increase in nonstate, nonBlue Cross and Blue Shield functions. What they did not do in the estimation is what the decrease would be of catching some of these life threatening diseases earlier. We just have the cost side and in any kind of economic analysis that is what you get and that is what we use around here, but because this is a preventive health care measure, it could have, might have, I won't know until we have an experienced person. I am not going to claim for sure that it will have a decreasing effect on this insurance as well.

Most of the testimony was concerned about being outside of the HMO networks and as I understand it the companies that have those concerns are comfortable with the amendment that allows for one referral and any further treatments you have to go back to your gatekeeper for approval. It preserves the integrity of the HMO process while allowing a woman to self-refer herself to an OB-GYN one time.

It doesn't seem like a big deal to me as a guy probably and to some of us here, but after we got through with this bill, I had a number of phone calls thanking me for putting this bill in. I heard numerous stories about some women's physicians, the gatekeeper, refusing them the ability to go to see their OB-GYN because they could do that type of service in the office. They didn't feel comfortable with that so they wound up having to go outside the gatekeeper service anyway and switching their initial physician. It is basic health care. It is usually preventive and anyone that has talked to very many people about it usually finds out that this is the way that cervical cancer and a number of other diseases in that are caught by OB-GYNs, more so than a general practitioner. It greatly reduced the life threatening aspects of these diseases when they are caught earlier. I am hoping that it will have a decreasing effect on this. I hope will join me in supporting this modest measure crafted by Representative Mayo. Thank you.

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

Representative LUMBRA: Mr. Speaker, Men and Women of the House: I just wanted to clarify. The 10 cents was for the pap smear mandate only. The committee unanimously agreed with the pap smear being part of a covered service. It was approximately a dollar or a little bit more than a dollar that they estimated it could increase for the self-referral. We don't know what the increase in premiums would be for additional referrals with the nurse practitioner and the certified midwife. Because of that and because we didn't discuss that aspect of it in committee, I will be voting against this.

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

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

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion to adopt House Amendment "B" (H-822) to Committee

Amendment "A" (H-707). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 335

YEA - Adams, Ahearne, Aikman, Ault, Bailey, Barth, Benedikt, Berry, Bigl, Bouffard, Brennan, Buck, Bunker, Cameron, Carr, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Cross, Daggett, Damren, Davidson, Desmond, DiPietro, Donnelly, Dore, Driscoll, Etnier, Farnum, Fisher, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Hartnett, Hatch, Heesch, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Joyce, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lemaire, Lemke, Lemont, Libby JD; Lindahl, Lovett, Luther, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Garra, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Poirier, Poulin, Pouliot, Povich, Reed, G.; Richard, Richardson, Ricker, Robichaud, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stevens, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tufts, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, Whitcomb, Winglass, Winn, The Speaker.

NAY - Birney, Campbell, Carleton, Clukey, Dexter, Greenlaw, Guerrette, Heino, Jones, S.; Joy, Lane, Layton, Look, Lumbra, Murphy, Nass, Pinkham, Rice, Stedman, Stone, Underwood, Waterhouse, Winsor.

ABSENT - Dunn, Fitzpatrick, Libby JL; Nickerson, Plowman, Reed, W.; Truman.

Yes, 121; No, 23; Absent, 7; Excused, 0.

121 having voted in the affirmative and 23 voted in the negative, with 7 being absent, House Amendment "D" (H-822) to Committee Amendment "A" (H-707) was adopted.

On motion of Representative JACQUES of Waterville, rules were suspended for the purpose of reconsideration.

On further motion of the same Representative the House reconsidered its action whereby Committee Amendment "A" (H-707) was adopted.

On further motion of the same Representative, the House reconsidered its action whereby Senate Amendment "A" (S-469) to Committee Amendment "A" (H-707) was adopted.

On further motion of the same Representative, Senate Amendment "A" (S-469) was indefinitely postponed.

Committee Amendment "A" (H-707) as amended by House Amendment "D" (H-822) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-707) as amended by House Amendment "D" (H-822) thereto in non-concurrence and sent up for concurrence.

An Act to Revise the State Active Service Laws (H.P. 1269) (L.D. 1744) (Governor's Bill) (C. "A" H-784)

TABLED - March 25, 1996 by Representative NADEAU of Saco.

PENDING - Passage to be Enacted.

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

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

SENATE PAPERS

Ought to Pass as Amended

Report of the Committee on Criminal Justice reporting "Ought to Pass" as amended by Committee Amendment "A" (S-516) on Bill "An Act to Make Comprehensive Changes to the Sex Offender Laws" (S.P. 551) (L.D. 1510)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-516).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-516) 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-516) in concurrence.

Ought to Pass as Amended

Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-520) on Bill "An Act to Combine Certain Reporting Requirements for Employees" (S.P. 738) (L.D. 1846)(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-520).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-520) 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-520) in concurrence.

Ought to Pass as Amended

Report of the Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-519) on Bill "An Act to Amend the Maine Turnpike Authority's Budget for Calendar Year 1996" (EMERGENCY) (S.P. 759) (L.D. 1871)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-519) as amended by Senate Amendment "A" (S-523) thereto.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-519) was read by the Clerk. Senate Amendment "A" (S-523) to Committee Amendment "A" (S-519) was read by the Clerk and adopted. Committee Amendment "A" (S-519) as amended by Senate Amendment "A" (S-523) thereto 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-519) as amended by Senate Amendment "A" (S-523) thereto in concurrence.

Divided Report

Majority Report of the Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-499) on Bill "An Act to Authorize a General Fund Bond Issue in the

Amount of \$5,500,000 for Major Improvements at State Park and Historic Site Facilities and for the Public Access to Maine Waters Fund and the Land for Maine's Future Fund" (S.P. 740) (L.D. 1848) (Governor's Bill) Signed:

Senator:

Representatives:

BERUBE of Androscoggin
SIMONEAU of Thomaston
DONNELLY of Presque Isle
MORRISON of Bangor
TOWNSEND of Portland
POULIOT of Lewiston
KERR of Old Orchard Beach
DIPIETRO of S. Portland
JOSEPH of Waterville

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

Signed:

Senators:

Representatives:

BEGLEY of Lincoln
HANLEY of Oxford
OTT of York
AIKMAN of Poland

Came from the Senate with the Reports read and the Bill and accompanying papers recommitted to the Committee on Appropriations and Financial Affairs.

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

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative DEXTER from the Committee on Natural Resources on Bill "An Act to Remove Statutory References to the Maine Waste Management Agency" (H.P. 1343) (L.D. 1838) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-853)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-853) 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-853) and sent up for concurrence.

Divided Report

Majority Report of the Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-849) on Bill "An Act to Facilitate the Implementation of a Logo Sign Program on the Interstate" (H.P. 1359) (L.D. 1864)

Signed:

Senators:

Representatives:

PARADIS of Aroostook
CASSIDY of Washington
RICKER of Lewiston
BOUFFARD of Lewiston
O'GARA of Westbrook
STROUT of Corinth
LINDAHL of Northport
CHARTRAND of Rockland
FARNUM of South Berwick
DRISCOLL of Calais
HEINO of Boothbay

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-850) on same Bill.

Signed:

Senator:

STEVENS of Androscoggin

Representative: BAILEY of Township 27
Was read.

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

The Bill was read once. Committee Amendment "A" (H-849) 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-849) and sent up for concurrence.

ENACTORS

Emergency Measure

An Act to Establish a Sea Urchin Management Plan (H.P. 1252) (L.D. 1714) (C. "A" H-816)

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

On motion of Representative JACQUES of Waterville, tabled pending passage to be enacted and later today assigned.

Emergency Measure

An Act to Support Abatement of Uncontrolled Tire Stockpiles (H.P. 1298) (L.D. 1781) (C. "A" H-782)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

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 (S.P. 716) (L.D. 1817) (Governor's Bill) (C. "A" S-496)

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. 119 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 Regarding Survivor Benefits in the Event of Divorce and Remarriage (S.P. 723) (L.D. 1825) (S. "A" S-503 to C. "A" S-495)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 115 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Authorizing County Commissioners to Enact Ordinances Concerning Addressing Standards for

Enhanced 9-1-1 Services in the Unorganized Territories (S.P. 735) (L.D. 1844)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 111 voted in favor of the same and 5 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Require Additional Promotion of the Maine Quality Seal (H.P. 1294) (L.D. 1776) (H. "A" H-826)

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. 122 voted in favor of the same and 0 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Extend the Reporting Deadline of the Export Financing Services Study Group (S.P. 752) (L.D. 1865)

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. 117 voted in favor of the same and 1 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Emergency Mandate

An Act to Revise the Charter of the Boothbay Harbor Water System (H.P. 1194) (L.D. 1638) (C. "A" H-795)

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. 122 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.

An Act to Establish a Higher Education Tax Credit for Middle-class Families (H.P. 1171) (L.D. 1603) (C. "B" H-772)

An Act to Amend and Further Deregulate the Maine Consumer Credit Code (H.P. 1239) (L.D. 1699) (C. "A" H-805)

An Act to Amend the Tax Laws Regarding Retail Business Registration and Penalty Relief to Taxpayers with Extensions (H.P. 1251) (L.D. 1713) (C. "A" H-798)

An Act to Allow the Adjutant General to Sell Unfit and Unneeded Property and Apply Proceeds to the Military Bureau's 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) (H. "A" H-823 to C. "A" S-489)

An Act Authorizing Officers of Closely Held Corporations to Represent those Corporations before Any Court (H.P. 1264) (L.D. 1739) (C. "A" H-770)

An Act to Establish Consistency between Federal and State Drinking Water Laws (H.P. 1268) (L.D. 1743) (C. "A" H-785)

An Act to Amend the Standards for Appointing the Guardian of a Minor (H.P. 1285) (L.D. 1765) (C. "A" H-792)

Resolve, to Review the Role of the Department of Administrative and Financial Services in Approving School Construction Projects for School Administrative Units (H.P. 1210) (L.D. 1660) (C. "A" H-786)

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

SENATE PAPERS

The following Joint Order: (S.P. 767)

ORDERED, the House concurring, that the Joint Standing Committee on State and Local Government report out, to the House, legislation concerning reducing costs for municipalities.

Came from the Senate, read and passed.

Was read and passed in concurrence.

Non-Concurrent Matter

Joint Order (H.P. 1370) relative to recalling Bill, "An Act to Place Limited Rules on the Use of Personal Watercraft on Waters of the State," H.P. 1365, L.D. 1874, and all its accompanying papers, from the legislative files to the House which was read and passed in the House on March 26, 1996.

Came from the Senate indefinitely postponed in non-concurrence.

The House voted to Insist.

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

SENATE DIVIDED REPORT - Majority (7) **"Ought to Pass"** as amended by Committee Amendment "A" (S-472) - Minority (6) **"Ought to Pass"** as amended by Committee Amendment "B" (S-473) - Committee on **Banking and Insurance** on Bill "An Act to Allow the Diagnosis of Biologically-based Mental Illness by Licensed Psychologists" (EMERGENCY) (S.P. 622) (L.D. 1630) - In Senate, Majority **"Ought to Pass"** as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-472).

TABLED - March 20, 1996 by Representative VIGUE of Winslow.

PENDING - Motion of same Representative to accept the Majority **"Ought to Pass"** as amended by Committee Amendment "A" (S-472) Report.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: Finally this is coming to the floor. When I was first approached to support L.D. 595 or as currently known L.D. 1630 by my friend from Auburn, Representative Dore, I could feel the urgency and the pain in her request. After listening to a number of groups advocating for just this kind of coverage, I finally agreed to support the inclusion of M.D.s, osteopathic physicians, licensed psychologists and hospitals.

The intent of L.D. 1630 was to provide reimbursement for the treatment and diagnosis of biologically-based mental illnesses. I repeat again, the intent, it is under the same payment terms as we provide for medical illness. The public hearing was held to provide public knowledge and understanding as to what we were doing. The difference between Committee Amendments "A" and "B" brings in licensed mental health providers and licensed clinical workers. When I add my name to new legislation, I want it done in full view. I want people to know why and what I am doing. The intent of L.D. 595 or L.D. 1630 as was known as Public Law 407, was to provide parity reimbursement for the diagnosis and treatment or mental illness at the same level as physical illness.

If we are to mandate coverage for the many providers that would slip in to a Minority Report, you are now looking at 1,000 additional providers. I say bring in legislation in the 118th Legislature and let the people voice their opinion. Let it be heard and we will go from there. I urge you to support L.D. 1630 as amended by Committee Amendment "A," keeping the intent of the legislation as a guiding principle in what we do here in the Legislature. I urge your support of the Majority Report as amended by Committee Amendment "A."

In the 116th Legislature we passed legislation to limit the rulemaking ability of state agencies to the intent, not beyond the intent of the legislation. As a legislative body, ladies and gentlemen, we have lost the respect that this body should never have lost. The reason being is that we are not holding ourselves to the same standards that we ask people to hold themselves by. If we are to regain the respect that we have had in the past years, I urge you to support the Majority Report as amended by Committee Amendment "A." Thank you.

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I rise in opposition to the Majority "Ought to Pass" Report and would urge that we defeat it and move on to the Minority Report. It seems as though we have heard some of this earlier today. This is another Divided Report from your Banking and Insurance Committee. The committee did, this year and a year ago in 1995, spend a great deal of time discussing this particular issue. There are on it, differences of opinion within the committee on this issue. It is just not an argument for an argument's sake.

In L.D. 1630 in both the Majority and Minority Reports, it is a 7-to-6 situation within the committee, support including psychologists among those who can diagnose, treat and be reimbursed at parity. What is parity? It means that if a health contract for physical illness states that reimbursement for services is at 80 percent with the patient paying 20 percent, then this ratio will also apply for mental illnesses mentioned in L.D. 595, which will soon, at the end of June, be Public Law 407. While talking about parity, it does not mean that if a psychiatrist is receiving \$100 per hour for his or her services, that a licensed clinical social worker will also receive the same \$100, rather they will be paid or reimbursed on the same ratio or basis.

The major difference between the Majority and Minority Reports are two. The Minority Report states, basically, that all group contracts must

provide, at a minimum, benefits according to paragraph B, subparagraph (1) for a person receiving medical treatment for any of the following mental illnesses diagnosed by a licensed allopathic or osteopathic physician or a licensed mental health provider acting within the scope of the provider's license. That is the difference. In the Minority Report we have not spelled out who is or is not included or excluded. Rather, we have used the word scope of practice, which has a basis in statute and will let the appropriate state bodies determine what is within scope of practice.

Within this chamber, there are a number of people who are licensed by the state. Lawyers are licensed by the state. I am licensed by the state as a funeral director. Neither the lawyer or the funeral director is able to diagnose and treat biologically-based mental illness because it is not within our scope of practice.

Yesterday afternoon, thinking that we were going to get into a debate on this particular issue, two documents were distributed. I will only address one and that is titled, An Overview of Mental Health Providers. It notes on the front that a licensed clinical nurse specialist in psychiatric and mental health nursing and a licensed clinical social worker, both within their scope of practice can diagnose and treat mental disorders. On the back of the sheet, I would draw your attention to the fact that there are three other mental health providers that are listed. A licensed clinical professional counselor, a licensed marriage and family therapist and a licensed pastoral counselor, these people within their scope of practice have the ability to assess and treat intrapersonal and interpersonal problems. They do not, within their scope of practice, have the ability to diagnose and treat mental illnesses.

With regard to the social workers and the psychiatric nurses, it is certainly the feeling of the minority that these two categories were included in L.D. 595, soon to be public law 407. If the Majority Report is accepted, they will be excluded from parity and put back at a 50/50 basis. The Minority does not agree with that position and I would urge that you vote to reject the Majority "Ought to Pass" amendment and that you support the Minority amendment. Thank you.

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

Representative GATES: Mr. Speaker, Men and Women of the House: I also rise in opposition to the pending motion and urge you to vote against it and go on to the Minority Report. Once again, to give you the lay of the land, this bill is a follow-up to our action last session where we granted insurance parity to those with biologically-based mental illnesses. We felt that it was unfair for insurance companies to distinguish or discriminate between someone who had something wrong with their heart, for example, and someone who had something physically wrong with their brain. Overwhelmingly, we passed L.D. 595 into law.

Medication plays an important role in these biologically-based mental illnesses and it plays an important role in both the diagnosis and treatment of these illnesses, which are things like schizophrenia and bipolar disease. Forty years ago, these folks were just institutionalized. Today, they can lead productive lives if they stay on their medication. Because medication plays an important role, last time we decided that it was only appropriate to have

physicians who have the power to prescribe medications would be able to diagnose these things and be covered under the insurance mandate, so we excluded psychologists on purpose last time around, because they couldn't prescribe medication. In retrospect, many felt that was a narrow minded decision and then Senator Abromson came forward with this bill, L.D. 1630, to add the psychologists back in for diagnosis because the fact is psychologists treat these things everyday and family physicians, such as mine don't go near them so the psychologists have a great deal more expertise. It is appropriate that we add the psychologists back in for diagnosis of these biologically-based mental illnesses.

What the Majority Report also does, in the amendment going way beyond the original bill, is it narrows what we passed last year. It says that now you have to be a physician or a psychologist to treat it too. Fine, you have to be a psychologist to diagnose, but you don't have to be a psychologist to meet weekly with this patient and make sure they are staying on their medication. Masters in social work easily can do that. There is no reason to restrict treatment to the most expensive providers, the psychologists and the physicians. Licensed LCPC and MSW all have a role to play. There is no reason to exclude them as part of this legislation.

The other report simply says that if it is within your scope of practice then it is appropriate they are also reimbursed for it. I urge you to vote against the pending motion and not to restrict the available treatment for these mental illnesses.

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

Representative LUMBRA: Mr. Speaker, Ladies and Gentlemen of the House: I am on the Majority "Ought to Pass" Report and I think there has been a little bit of misunderstanding and I want to clarify what this bill is about. It is medical parity. Keep that in mind, medical parity. That is for the seven biologically-based mental illnesses. They have a physical reason why they have schizophrenia or manic depression and they need to be treated with medication. This bill was always meant for medical parity. That can only be done by a physician. The physicians have asked us to include psychologists because they often need their assistance, if they are not a psychiatrist, in diagnosing.

I rise today not on the mandate issue, but on behalf of the mentally ill. I don't know of any other physical disease that we water down who can diagnose and who can treat. I will say this that I think by going with the Majority Report, which allows nonphysicians to process or treat the mentally ill, we are putting them in danger. Number one, what is to say that their managed care company wouldn't insist that they go to a social worker because they only charge \$50 an hour rather than a psychiatrist who charges \$100 an hour. If I had heart disease, would I want to go to a nutritionist. I have nothing against nutritionists, but no, I would want to go to a cardiologist or a specialist in the area. I think the mentally ill deserve the same thing.

I think this bill is very clear. It is on medical parity for the mentally ill. The mentally ill deserve the best. We don't need to water this down. They need to be protected and that is what the Majority Report does. I urge you to stick with the Majority "Ought to Pass." Thank you.

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

Representative THOMPSON: Mr. Speaker, Men and Women of the House: I rise in opposition to the Majority "Ought to Pass" Report. I will give you a simple scenario. Both bills would allow a biologically-based mental illness to be diagnosed by the same people, but that is not the issue. The issue is what happens after they are diagnosed. The Majority Report would require that only a psychiatrist or an M.D. or a psychologist do the treatment. The Minority Report would allow a combination of those to be used in a treatment, which often happens. These types of mental illnesses often the psychiatrist or the medical doctor or the physician will prescribe the medication, but does not get involved in the week-to-week counseling sessions. The LCSW may be doing the counseling and will do the counseling on a weekly or as needed basis and the person may visit with their psychiatrist once a month to make sure their medications are appropriate or with their M.D. once a month to make sure their medications are working properly. They would do their regular counseling sessions with an LCSW.

The Majority Report says you can't do that, but if you do that we are only going to pay that licensed social worker on a 50/50 basis and you have to pick up half the tab. What is the result of that? People either aren't going to go for their counseling because they have to pay a higher tab or they are going to do all their counseling with a psychiatrist at twice the cost when that may not be necessary. I urge you to reject the "Ought to Pass" report and accept the Minority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Pittston, Representative Guerrette.

Representative GUERRETTE: Mr. Speaker, Ladies and Gentlemen of the House: I get the feeling that some of your eyes glaze over when we talk about these Banking and Insurance bills. I can assure you that for us they are very serious and very important. This is a very important issue and we don't mean to keep dragging this on for you, but sometimes it is necessary.

I rise today as an advocate for the consumer of health insurance. We often talk about the providers and what their needs are and this group of providers and that group of providers needs to be paid this amount of money or that amount of money. My concern is for the individual that lives in my district or the small businesses located in my district that wishes to buy health insurance for their employees or for themselves. With the Majority Report, the cost of that health insurance to that family will be less. The cost of health insurance to that employer or that small business will be less. They will be more able to buy health insurance for their employees. I believe that sometimes we get the best is the enemy of the good. In this case, I believe that is true. If we, today, vote for the Majority Report, we will be voting for something that is good for consumers that will save them money and will not put additional burdens on their shoulders.

As a body here, we are loathed to raise new taxes and we are loathed to put more fees and penalties on the citizens that we represent, yet, time in and time out we, through a back door method, add to their cost of everyday living with these mandates. This is a

costly mandate and it can be avoided by supporting the Majority Report. The Majority Report will treat biologically-based mental illnesses the same as any other illness in their diagnosis. It will treat them in their treatment the same if they use a psychologist or a psychiatrist.

You may have had calls from social workers that say they will be losing payment. They will not. They will see the exact same amount of reimbursement that they have today. If someone counsels someone today, they are getting paid for that at a rate of 50/50, up to \$100,000. That is what is happening today in the State of Maine. This will continue to happen with the Majority Report. They will be reimbursed. They will be able to see these people. What will not happen is the cost of health insurance on Maine citizens will not rise additionally more. I encourage you to support the Majority Report and vote with the consumers of the State of Maine. Thank you.

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

Representative SAXL: Mr. Speaker, Men and Women of the House: We have four folks supporting the Majority "Ought to Pass" Report, it brought two major points forward that they believe are compelling on their case and I would like to address both of those issues.

The first issue that is brought up by my good friend, Representative Guerrette, is cost. Will it be cheaper for consumers in the State of Maine to go see a psychiatrist for treatment of their mental health care for their biologically-based mental health care? No, it won't be. It will drive up the cost of insurance rates. Psychiatrists cost about twice as much as a social worker. Psychiatrists cost about twice as much as a LCSW, but what will happen in the reality? Consumers will go to see a psychiatrist under a 80/20 copay because their out-of-pocket costs will be less than a 50/50 to go see an LCSW. What is going to happen is that what is currently happening in the market for those who cover mental health, Health Source, Blue Cross and Blue Shield, Harvard Pilgrim and managed care throughout the State of Maine today relies on alternative groups like LCSWs and MSWs to provide treatment for this population. Under the majority suggestion, the benefits of that are going to be undercut due to the copay change.

The second part, which is the most important part that we are going to address today is what is good health care for people with mental illness? Representative Lumbra, my good friend from Bangor, says that she is here to protect the mentally ill. The mentally ill are protected in the State of Maine by experts. My friend, Representative Campbell, said in committee the other day and I quote, "I feel more comfortable not managing health care through statutes, but to allow the people with the expertise to make the decisions." In that debate we were talking about the length of stay for maternity and that an OB-GYN and overseeing boards have the expertise to make that choice. In the State of Maine we have boards that are experts. MSWs get their licensing through a board of registry. They determine what is scientifically sound and what is appropriate treatment. Nobody in the State of Maine will be at risk from getting their health care from that person under their scope of practice.

Like my good friend, Representative Mayo said it is like going to see a lawyer. Obviously, you and I

are not going to see a lawyer for our mental health. We are going to see a lawyer for legal help. What we are going to do is we are going to seek the best care possible for our needs. This is the safety of Maine's mentally ill and will not be jeopardized at all by the Minority Report. It is just the opposite. It will allow consumers to maintain relationships they have with their providers at a cost savings to premium payers and it is good sense and good policy.

I urge you to defeat the pending motion and go on to support the Minority Report. Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I just have to bring in a little bit of history here. In the 115th and 116th, I sat on Business Legislation when these providers that are now in the network tried to be fully funded. We are just trying to get licensed. They were fighting and calling each other all kinds of names and they were trying to keep other groups, one was trying to keep the other one from being allowed to get licensed. This went on for most of the 115th and into the 116th Legislature. Finally, some of whom were allowed to come in to licensure. In just two years they are here and they are asking to be funded at the same level as an M.D., a psychiatrist and an osteopathic physician. I have no problems with this. If this is what you intended to do, but this is not what we intended to do when I accepted Representative Dore's request to support this position. I said I will support it because biologically-based mental illness requires drugs for treatment.

Ladies and gentlemen, my community has been affected by this, more so than any community here. I personally knew the two nuns who were involved in Waterville and I now have another one in the community of Winslow that has been affected, not because of counseling, but because of not taking their drugs. This is the problem. Fine, let's cover them. We will cover M.D.s, osteopaths and psychologists, but if you are going to bring in others let's have a public hearing, ladies and gentlemen, and let's let the public see what we are going to do and then we can bring them in. Until that time, I think we should go with the Majority Report as amended by Committee Amendment "A." I can't see bringing people into the system unless we intended to do so when the public hearing was held. I ask you to please support the Majority Report as amended by Committee Amendment "A." Thank you.

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Campbell.

Representative CAMPBELL: Mr. Speaker, Men and Women of the House: I would like to just try to reconstruct history from my perspective. I have only served two terms and when I came in in the 116th Legislature, mental health had been a discussion for many years. At that point, we had established, prior to my coming, a \$25,000 lifetime cap on mental illness. Clearly with the debate and a bill presented to the body, to the committee and then the body in the 116th Legislature, it was good public policy to increase that from \$25,000 lifetime cap compensated to 50/50 to \$100,000 lifetime 50/50. We did that because it was the right thing to do.

In the 117th Legislature when I came back, we furthered that concept with great debate and great

reluctance on many of our parts for fear of a huge mandate, but with a lot of discussion and a lot of facts presented, we in the committee recommended to this body and we passed a lifetime mental health parity at 80/20 reimbursement. There was a reason for that. The reason was it is good public policy. Why were we able to arrive at that good public policy? We, after hours and days of debate and negotiations, were convinced that we could narrowly define mental illness and we could narrowly define it because there were seven biologically-based illnesses that we could treat with medicine. We could define them as biologically-based mental illnesses because of that medical treatments.

Our concern was that it not be so defined that it become treatable through behavioral treatment. No, we were reassured that behavioral treatment didn't affect the seven biologically-based illnesses. In order to keep it narrowly defined, it had to be treated by M.D.s and by medicine. Now comes the problem. You have heard a lot about the differences between the two bills, but the problem is and one that I truly have to apologize to the body for, I didn't understand the language of the legislation passed in the 117th to broadly sweep in nonphysician providers to treat these illnesses. I truly want to apologize to the body for recommending that, because in the language that we swept in social workers and all the others that have been defined here this evening.

The Majority bill, which is before us, "Ought to Pass" doesn't take away the reimbursement to the social workers and others. They will still be reimbursed 50/50 to \$100,000 lifetime. I didn't recommend to the body to vote in favor of a mandate that would be so broadly burdensome to the citizens of the State of Maine that it would include million-dollar 80/20 to all who could treat these illnesses. All the Majority Report is trying to do is to bring us back to what many of us on the committee were convinced was the pure definition of seven biologically-based mental illnesses to ensure that the worst cases were reimbursed the same as any physical illness. A million-dollar 80/20, not to be so broad that it swept in all the other providers. Simply put, we are trying to bring it back to what many on the committee intended in the 117th.

I implore you to vote "Ought to Pass" as it appears before you. Thank you.

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

Representative THOMPSON: Mr. Speaker, Men and Women of the House: One thing I want to make clear on this bill is it is the Majority Report that is changing the law, the existing law is what is supported by the Minority Report. Both make one change and that is to add psychologists to the people that can diagnose. Everyone agrees on that. The Majority Report goes further and says that we don't like something that we did last year so we are going to change it. There is nothing in the Minority Report, if you take away the psychologists issues, that adds anything new. To say that the Minority Report is going to add costs or anything, no, we are staying with the current law. It is the Majority Report that is changing the law.

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

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to speak on this bill and I will try to speak briefly. I have been talking about this issue for five years now. It is a surprise to me that I have been talking about it for five years now. Last year I felt like everybody got it. We have done slide shows. We have done luncheons with psychiatrists explaining the treatment. We have done reports on the efficacy of treatment. We have had consumers at some risk of their privacy call legislators and discuss what it is to live with a neurobiologically-based mental illness and the stigma and cost to them and their families. Last year we had an overwhelming vote and I felt like everyone is on the same page or a majority of people are on the same page. They know that these are diseases and they ought to be treated like other diseases. I am going to ask for a page. I would like to distribute this item to all of you. I promise by the time it is distributed, I will have concluded my remarks, since I am going to speed up my discussion.

First Mr. Speaker, I would like to ask for a roll call. Mr. Speaker, all along for me this has been about consumer access to care and that has never changed. When I go to see my doctor I have a \$5 co-pay because I am on the state health insurance plan. I don't think it ought to be that low, but that is how low it is. If I see my nurse practitioner in my doctor's office, which frequently happens, I have the same \$5 co-pay. I know it costs my physician less money if I see the nurse practitioner when I am sick than if I see the doctor. I know that. I don't care. I want to see somebody. I want to access some treatment. I want to get suitably treated.

These are serious and as I have stated before the committee last year, very serious illnesses most of which are most commonly treated with medications. What does that mean? For most of these illnesses, most commonly, somebody is going to have an interaction with a physician because nobody, a psychologist, social worker or nobody can write a prescription who is not a physician. It is my personal preference that anybody who has a biologically-based mental illness and is getting medications see a psychiatrist, not a regular M.D. I have nothing against regular M.D.s, but these are sophisticated medications. We live in a rural state and I know of one county that I think has exactly one psychiatrist and another county that has two. Several municipalities in this state that are hours from cities have none. I know that folks have to see regular doctors who are not psychiatrists in order to get their medications.

The way the treatment works for mental illness is like this. People specialize in areas. They develop a reputation. If you have panic disorder, the person who is the best person to treat you in Presque Isle may well be a physician who has developed a specialty in panic disorders, but in Bangor it may be a psychologist who has developed a specialty in panic disorder and has a reputation for treating that very effectively. In Waterville, it may be an MSW social worker who has specialized and in their post masters degree training in their practice developed some expertise in treating panic disorder. The same is true for the other biologically-based mental illnesses. People develop expertise working with people who have bipolar disorder, often called by

your constituents, manic depression. They get really good at working with them and getting them to catch on to when they are cycling high and when they are cycling low and to get them in for a medication adjustment when they need it. In between those medications, they see those counselors with those advanced degrees so that they can learn some self-queuing skills on when they need to be in for treatment.

I wish I could tell you that this is black and white and that everybody with a biologically-based mental illness ought to go see a doctor and get a pill and everything will be fine. That is not true and it is not true in a lot of other disease areas as well. It is not true with heart disease. You go in get a bypass and never adjust your diet or see a nutritionist, as Representative Lumbr spoke about, not wanting to see a nutritionist for heart disease. I think that is a fundamental mistake. If I had heart disease, not only would I want to see a cardiologist, but you bet I would be in a nutritionist's office finding out what diet I ought to be on.

In this case, if you have a biologically-based mental illness, let me make this very clear to you folks. I have never worried if psychiatrists or psychologists or social workers are going to make a living. I don't do this representing the guilds. What I do in terms of advocating for the mentally ill for the consumers that people have talked about today is about accessing care in the best possible place you can find it. The very best person to treat a different illness in a different town is somebody who might not have the same advanced degree as the person who treats that illness in another town. Simply put and it is hard to put this simply, people should be choosing their providers because of their reputation in treating that illness. They will all have to see if they take physicians, but in terms of their specific illness, they should look to the reputation of that provider.

Will somebody make a mistake? You bet somebody will make a mistake and that is why they all have to have malpractice insurance because somebody will make a mistake. You can count on it and I can count on it. Will somebody make a mistake if it is limited to physicians and psychologists? You bet. Do psychiatrists make mistakes? You bet. Do psychologists make mistakes? You bet and so do social workers, MSW social workers. The point of this is that if I had one of these illnesses I would want to say who in Lewiston/Auburn is the best at this illness.

Believe me there is a network of people talking to one another about who is the best at this or that or the other thing in all of our towns. That is who they want to access care with. They should be able to access it the way they do for all physical illnesses, which isn't 80/20 as some people have said or \$5. It is at the same rate. That is what nondiscrimination is about. The same exact rate as you would pay to access any other care. That is what nondiscrimination is and that is what I thought I explained to this committee and this Legislature a year ago.

I looked for the record so that I could verify it when I heard people didn't understand what they did. Last years record isn't printed up and I can only apologize for that. I wish it were because I am pretty confident that I have been saying the same

thing for five years now. I hope that you will vote against the Majority Report and go on to vote for the Minority Report because that provides the best access to care. If you have looked at this handout, it just so happens that when people can access all three of the professional levels of care, M.D., osteopath, psychologist or a masters in social work for these biologically-based illnesses sometimes they will access the care that costs the insurer less, which is why there is no fiscal note on this bill no matter whether you support Report "A" or Report "B." There is no fiscal note because there is no savings to employers and there is no savings to employees. There is no savings to the State of Maine, which is one of the largest employers if you report our Report "A." That is just simply inaccurate, if there were savings this state, which is a large employer buys a big insurance contract and it would show in a positive fiscal note if there were savings in Report "A" that are not there in Report "B."

No matter who these people see, they will see someone. They have a serious illness and they will seek access to care. The question is are we going to restrict the access to where they get the care from. Thank you ladies and gentlemen.

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

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

Representative LUMBRA: Mr. Speaker, Men and Women of the House: I just want to clarify a couple of things. You should realize that the committee worked on this for days. I mean probably five work sessions. It may seem like a long debate, but we have put a lot of time and effort into this. You really need to understand this. I think the best way for you to understand it is for me to give you an example, a personal example, of what happens if the Majority "Ought to Pass" motion is defeated.

First of all, Representative Thompson said, what happens after a person is diagnosed, what then, what about the treatment? Well, psychiatrists, psychologists and doctors can treat. If they want to refer out, they can refer out. That is exactly what I am worried about, the treatment. Let me give you an example why. You probably know Anna in the House Republican Office, some of you already know this. That is a prime example of what we are trying to protect. Anna's sister was diagnosed with bipolar disease. She had to be on medication. The medication is very, very touchy and very, very dangerous. You cannot go once a month to see if your levels are right. That is medical ignorance to think that. It is very dangerous and you have to be careful with these medications. They have a lot of side effects. Anna's sister, one of the side effects is that she gained a little bit of weight and she didn't like that and her job and all.

A provider, a mental illness provider said you don't need to have this medication. I can treat you without this medication. She went off her medication. It went downhill from there. Her family couldn't reach her. She eventually died in a cold river all by herself. This is reality. I went to BMHI and talked with nurses there and they told me story after story after story just like this. I don't care if it is a cost savings or not. What I care is that it is responsible legislation.

The other thing that was said here by Representative Saxl is that managed care companies rely on nonphysician providers. That is exactly what I am afraid of, that they will be sent to the cheapest provider. I am not interested in that. Let me also say that inappropriate care is always more expensive. I looked up a survey that was done. BMHI gave me this survey. They have quite a bit of expertise in the mental illness arena. It was done in every state in the country. That survey showed that the medical utilization, in other words, going in the hospital rose 60 percent for biological mental illness when not treated appropriately with medication. Sixty percent went in the hospital. That was an increase of 60 percent. I think inappropriate care is always more expensive. I would just ask you to vote for this. I know it has been a long debate, but we really care about this one. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Vigue. 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 VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I repeat my request for to hold ourselves to the same standard as we require the many agencies that write rules that we supervise. If we hold ourselves to the same standards, maybe in time we will regain the respect that we should have. Thank you.

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

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

The pending question before the House is to accept the Majority "Ought to Pass" Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 336

YEA - Aikman, Bailey, Barth, Birney, Buck, Cameron, Campbell, Carleton, Carr, Chick, Clukey, Damren, DiPietro, Donnelly, Farnum, Gieringer, Gooley, Greenlaw, Guerrette, Hichborn, Jones, S.; Joy, Joyce, Joyner, Lane, Layton, Lemke, Lemont, Lindahl, Look, Lumbra, Luther, Marshall, Meres, Nass, Ott, Paul, Pinkham, Poirier, Rice, Richard, Savage, Spear, Stedman, Taylor, True, Tufts, Underwood, Vigue, Waterhouse, Wheeler, Winglass, Winsor.

NAY - Adams, Ahearne, Ault, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Chartrand, Chase, Clark, Cloutier, Cross, Daggett, Davidson, Desmond, Dexter, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hartnett, Hatch, Heesch, Heino, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lemaire, Libby JD; Lovett, Madore, Martin, Marvin, Mayo, McAlevy, McElroy, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Peavey, Pendleton, Perkins, Poulin, Pouliot, Povich, Reed, G.; Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Stevens, Stone, Strout, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Volenik, Watson, Whitcomb, Winn, The Speaker.

ABSENT - Chizmar, Dunn, Libby JL; Nickerson, Plowman, Reed, W.; Robichaud, Truman.
Yes, 53; No, 90; Absent, 8; Excused, 0.

53 having voted in the affirmative and 90 voted in the negative, with 8 being absent, the Majority **"Ought to Pass"** as amended Report was not accepted.

Subsequently, the Minority **"Ought to Pass"** as amended by Committee Amendment "B" (S-473) was accepted.

The Bill was read once. Committee Amendment "B" (S-473) 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 "B" (S-473) in non-concurrence and sent up for concurrence.

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

HOUSE DIVIDED REPORT - Majority (7) **"Ought to Pass"** as amended by Committee Amendment "A" (H-828) - Minority (6) **"Ought to Pass"** as amended by Committee Amendment "B" (H-829) - Committee on Criminal Justice on Bill "An Act to Prohibit Stalking" (H.P. 1286) (L.D. 1766)

TABLED - March 25, 1996 (Till Later Today) by Representative CLARK of Millinocket.

PENDING - Motion of same Representative to accept the Minority **"Ought to Pass"** as amended by Committee Amendment "B" (H-829) Report.

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

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House: I ask that you defeat the Minority **"Ought to Pass"** Report so that we can go on and pass the Majority Report. Mr. Speaker, I request a division.

Representative CLUKEY of Houlton requested a division on the motion to accept the Minority **"Ought to Pass"** as amended Report.

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

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

Representative SAXL: Mr. Speaker, Men and Women of the House: Please bear with me because this is something which is very near and dear to my heart. Many of you know that I have been working on the issue of stalking for well over a year now and I have tried to bring together people from diverse backgrounds and diverse interests to meet the needs of Maine people. I am talking everyone from victim advocates to civil libertarians from the people at the courts to the prosecutors. What I have done today and what is before you today is a bill which is started by the good Senator from the State of Maine, Senator Bill Cohen.

In 1990, Senator Cohen proposed legislation before the United States Senate to develop model stalking legislation and 49 other states in this country saw fit to adopt legislation which would identify stalking as a crime. The only state in the country yet to follow Senator Cohen's lead is the State of Maine. We have a chance to remedy that today. In

1993, Representative Bruno, Senator Baldacci, Governor McKernan and Representative Cathcart all brought ideas together about how to address stalking. They took a first step that was very important to getting us to where we are today. Today, we have a chance to pass L.D. 1766, An Act to Prohibit Stalking.

This legislation is just what it sounds like. It defines stalking itself as a crime in the State of Maine and it is long overdue. As I have been on this journey to find out which way the State of Maine should go, I have spoken to hundreds and hundreds of victims. A young woman who testified before the committee testified movingly that she had been stalked for 11 years of her life. This is a real problem for Maine. People live their lives with terror and fear.

The number one crime problem in the State of Maine today is domestic violence. The courts handle over 16,000 cases a year. Justice Wathen in the State of the Judiciary to us said that Maine people beat and kill those they claim to love. Domestic violence is directly linked to stalking. Over 80 percent of domestic violence cases in the State of Maine have an element of stalking. When we vote today to address the issue of stalking, we are not just talking about celebrities in our state who have problems with stalking, like our favorite novelist Stephen King. What we are talking about is our neighbors. We are talking about affluent people. We are talking about poor people, men, women and children in the State of Maine who have stalkers. Sixty percent of the homicides in the State of Maine are the result of domestic violence. Former Public Safety Commissioner, John Atwood, says that 50 percent of homicides in the State of Maine have come out with an element of stalking. This is a major crime bill for the State of Maine. This is a chance for the people of Maine to say no to domestic violence and no to stalking and yes to simple security and safety in people's homes.

This bill proposes to do six major things and I am going to hit on them real quickly for you. One, it defines stalking itself as a crime. Two, in that definition of stalking it includes family members. If somebody stalks your wife and then starts following your daughter on the way to school, that is included in the crime of stalking and that makes sense.

Third, this bill ensures reciprocity with other states. What that means is there is a case in the State of Maine where a woman named Anne Marie Demsey Rice had to move three times, from between three different states had to move 11 times actually. She had to move between three different states. One of the states in Florida, she got a protection from abuse order. Well, she came to Maine and she notified the public and the people at the court. They sent the paperwork down to Florida to get that protection from abuse order filed up here. Well, because of bureaucratic mishandling and the misplacement of a filing fee, that protection order was never filed in the State of Maine. Her stalking case ended with her abuser Stephen Byars at her doorstep slashing his wrists, pounding on her door and creating what I would consider some real legitimate fear of something which is with this woman today. The reciprocity agreement with other states will take care of that. It will allow Anne Marie Demsey Rice to take a little bit of the

responsibility and file a copy of the protection order with her local court.

Fourth, this bill is going to address electronic stalking. Time, as we heard earlier today, that Maine join the technology age. People are harassing and following people through computers and through their private lives in that way. They are getting into their banking accounts and finding out where they spend their money. They are sending them harassing electronic mail messages and they are doing other things to legitimately interfere with people's lives.

Fifth, this bill establishes minimum mandatory sentences to give real accountability to people who violate this crime. Many of these cases, stalking is directly related to domestic violence relationships so that the first minimum mandatory sentence is 48 hours with a mandatory abuser program for the abuser. This is a pretty low standard and the judge can certainly make it a sentence for longer if it is needed and if he or she believes that a longer sentence is appropriate. What this does to Maine people distinctly is that the Maine Legislature says that stalking in this state can no longer be tolerated.

The last part of this legislation is to establish a statewide computer network system. This is, perhaps, the most important part of this legislation. I am going to lay before you a scenario to show how the computer system will impact this law and why it is important that we adopt it. I am going to show a piece of paper, you can follow along with me if you like. Say an abuser is released on bail in Cumberland County with a no-contact provision in their bail order. Say that the victim goes up to Machias for the weekend and the abuser follows her there and the abuser makes contact. He stalks her. He harasses her. He does whatever he does, but he breaks the no-contact provision. On a Saturday night in Machias, let me tell you that there is no way to know if there is a no-contact provision on a bail order. We are talking about 60 percent of the homicides in the State of Maine. Let's give law enforcement the tools they need to effectively and swiftly intervene in these cases.

People at the Bureau of Public Safety have estimated that this computer system will make law enforcement up to three times more effective. Justice Wathen highlighted this in his State of the Judiciary. He has said that this computer system is a crucial tool for the courts, to exemplify how important this is to domestic violence advocates in the State of Maine. These people who are terribly underfunded and come to the Legislature looking for help year after year have hired their own funding to pay for this computer system. They have taken money out of their own pockets. You go to a Rape Crisis Center or Family Crisis Center in the State of Maine and you ask them what they think they need more in the State of Maine to protect victims of domestic violence and stalking. They will say they need to give the cops and the prosecutors and the courts this computer system to protect victims of domestic violence.

The price tag on this is not so high. It is \$250,000. This is going to be paid through a 2 percent surcharge on criminal fines. That is how we are funding a part of our court system today and our Sheriff Department today. It is an appropriate method of funding this project. Let me say further

more that I don't want to create any new taxes or any new cost for state government. This surcharge is sunset. It will be repealed as soon as that \$250,000 is raised. The estimates, from the Bureau of Fiscal and Program Review, are that that will be in the next year to year and a half. Please, ladies and gentlemen of the House, stand with me tonight against domestic violence and against stalking. Adopt the Minority "Ought to Pass" Report as amended and say no to stalking and domestic violence.

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

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House: Both the "A" and "B" reports on this bill are exactly the same. It enacts a really good stalking law and it has really been explained to you well by Representative Saxl. Where we differ on the bill is in the funding mechanism, the surcharge, to put the computers in the court systems because this has nothing to do with the stalking law. The stalking law will stand on its own and you can investigate and prosecute a stalking law successfully without this computer system that would track domestic violence complaints and harassment complaints. This would not be a key element in the prosecution of a stalking case. Even if we can agree that this is needed, we felt as though the court system should go before the Appropriations Committee in the budget and make their case before the Appropriations Committee for this funding. The 2 percent surcharge on top of what is already a 10 percent surcharge on fines will not come from criminal fines. They will come from motor vehicle fines.

So, I should also tell you that the Department of Public Safety now through a federal grant is working toward this computerization. This is going to take place anyway without this surcharge. The surcharge is the only thing that we disagree on. We feel as though they should have gone before the Appropriations Committee asking for this money. If the Appropriations Committee felt it was necessary, they would have funded it. It has nothing to do with the stalking bill. You don't need this to prove a stalking case. Thank you.

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

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

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

Representative McALEVEY: Mr. Speaker, Ladies and Gentlemen of the House: What you have just heard is true actually. The stalking bill on both reports enacts good legislation that will handle and meet the needs of most of our problems with stalkers. However, this is a multijurisdictional problem that calls for a multijurisdictional approach. Most motor vehicle charges are infractions. They are written on uniform and traffic tickets and complaints. The courts handle those traffic tickets. The problem as I think I have heard it from the committee is they didn't think it was fair to ask motor vehicle

violators to fund this. I differ with that opinion on one point.

Most motor vehicle violators make a conscious effort to violate the law. They weigh the risk, speeding, running an intersection or whatever against being caught and paying a fine. When they are caught, they have their chance to tell their story in court. If they made a mistake and didn't see the traffic light, that is a legitimate argument to be made. When they make a legitimate decision to break the law, they also have to face the personal responsibility of paying the fine that goes with that. The difference between an OUI charge and running a traffic light is immense. One is felony and the other one is an infraction. The thing that they have in common is they both violate the law. The law that we write and we enact.

No matter what you call it, a fee, a tax, a surcharge or whatever, it is still a tax, no matter what you call it. It is levying this tax against the people who, in most cases, who are making a legitimate decision to violate that law. I think that is a pretty good way to fund this. There is a comparison between domestic violence and people who violate their domestic violence orders. We need to keep records available so the law enforcement people have 24-hour access to these records. The present system doesn't do that. The interreaction between the court, law enforcement, victim witness advocates and the need to service the victims isn't there because there is no standard way to check on these records immediately.

What I like about this funding mechanism is that you get the bang for the buck. In fact, you get two bangs for the buck. You meet a need that the courts have to implement a computer system. Oh, by the way, the courts do process those motor vehicle infraction tickets, whether it is a traffic light or speeding ticket or an OUI. They do process all of that paperwork. People who consentaneously violate the law run the risk of being caught and assess their behavior against the risk of being caught and paying a financial penalty. They need to accept personal responsibility for their actions. I think that personal responsibility to enact this piece of legislation that will solve one problem with the courts by giving them a computer system and secondly, strengthen or add to our criminal code. Personally, I think the less laws we have the better off we are, but in this case we have none when it comes to stalking. This is a fine piece of legislation and I hope it will be one of the best pieces of legislation that came out of this session this year. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: It has been a long day. I want to commend Representative Saxl for putting this bill together. He has put a lot of time, work and effort to put it together. It comes right from his heart. You heard him when he gave the testimony of what the bill consists of and how it works and whatever it may be. We had a lot of bills in our committee this year on Criminal Justice. This to me, has to be probably the most important bill coming out of our committee.

The Minority Report, to me, gives the most for the money. What is wrong with putting a surcharge on the ones committing any kind of a crime to protect the ones that may get hurt, killed or stalked. I can't see anything wrong with it. There is nothing wrong

with it. We fought tooth and nail with a few people in our committee for a surcharge to protect people. To me, this protects people. This speeds up the system and makes the system work even better. Not only gives law enforcement, but gives the judicial system a tool to work with. They need this tool to work, to protect the people out there on the street. I hope when you vote this evening, you send a strong message. The Minority Report is much better. It is workable and everybody likes it. It gives Representative Saxl one heck of a lot of work for putting this together. Thank you.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: When we talk about the fact both of the reports are the same, the only difference is the computer system, to me it is like the birthday cake that doesn't have the frosting. It is still there, but it is not going to be anywhere near as good. It is not going to serve the purpose. It is not going to do what you expect it to do. Back in 1993 this Legislature took a very, very small step in terms of stalking. We have a lot to catch up on in terms of how we deal with this issue. We have an opportunity tonight in accepting the Minority Report to, in fact, finish a job that was started several years ago by many different people. I think it is absolutely essential that we do that. We cannot, in fact, have effective enforcement without that computer system. We cannot, in fact, expect information to go from one end of the state to the other without the technology.

I talk about that based on personal experience. When the person that was stalking me, when I got my first temporary order from the court, this person happened to be living in his truck and he was between two towns. One being Portland and a smaller town. He was never able to receive the order so that we could go on to get a final order because when he was in Topsham, the paperwork was in Portland and when he was in Portland, the paperwork was in Topsham. There wasn't a way to coordinate it. There wasn't a way to get the information back and forth. There wasn't a way to make that happen without physically carrying the information back and forth. In this day and age, that is not acceptable. We cannot take the risk of someone's life because we are concerned that a person who has committed a criminal act, whether it is with a motor vehicle or something else, is going to have to pay an extra 2 percent surcharge on their fines.

We need to weigh what it is we are deciding. Who, in fact, is the victim here? Is the victim the person who is being stalked and can't get an order delivered to the person who is stalking them? Is the victim the person who can't get protection because the police department in Machias isn't going to have information about a no-contact order? Is the person we are protecting the one who has used a motor vehicle to commit a crime or the one that has committed some other crime and we are protecting them from an additional 2 percent surcharge? I think that is really the question here today. I would hope that when you vote, you are voting to protect the people who, in fact, are the real victims in this. Those are the people who have been stalked, the people who are in danger, the people who are in jeopardy and I would urge you to accept the Minority "Ought to Pass" Report. Thank you.

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

Representative CHICK: Mr. Speaker, Ladies and Gentlemen of the House: What I will have to say is based on situations that happened to members of my family. They did not occur recently. In other words, within the last year. However, I have no doubt in my mind about supporting this bill. I would commend the sponsor for all of the time he has spent on it. However, there is one small part, but very important, that I have not heard here this evening.

The experience that I know about, it was passed to me because I was not there, I think about the training of law enforcement people to deal with this problem. It is only based on one thing. I don't intend to spend a lot of time talking about it. It is the fact that somewhere early on, after one or two trips to the police station or where ever, the person that was being abused by being stalked was perceived to be the perpetrator. I haven't heard this dealt with here tonight, but I wonder just how it will be handled. I think maybe some of law enforcement people to do this effectively and investigate, need some training in this area. Thank you.

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

Representative CAMERON: Mr. Speaker, May I pose a question through the Chair? The SPEAKER PRO TEM: The Representative may pose his question.

Representative CAMERON: Thank you. To anyone who may answer, is there a finite period of time that this surcharge would be on? It seems to me that if the 2 percent is on for a period of time will buy the equipment and that is what the focus was. I haven't heard anybody answer that. Anybody that can answer, I would appreciate it.

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

Representative SAXL: Mr. Speaker, Men and Women of the House: That is an excellent question. In answer to your question, there is a definitive sunset for five years, but as soon as this is paid for, you can't link it to the purchasing of a certain amount of equipment. As soon as it is paid for, I will put in the legislation, if it is before that five years to end it before then. It should be in about a year or a year and a half.

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

Representative LANE: Mr. Speaker, Men and Women of the House: Just a quick question. Would someone please explain to me forfeitures and how that is going to work with that 2 percent surcharge?

The SPEAKER PRO TEM: 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 Waterboro, Representative McAlevey.

Representative McALEVEY: Mr. Speaker, Men and Women of the House: Perhaps I can answer both questions. I hope I can. I don't believe there is any provisions for any forfeiture in this legislation. That is basically language that comes down to us from the federal government and ourselves on drug related cases. To answer Representative Chick's question about training. The committee just came back from the Criminal Justice Academy today.

They do a lot of in-service training for their own programs for the 100-hour course, as well as the 18-week course and the State Police 22-week course. They do have a domestic violence section that they are required to instruct the cadets in. Should we make any other modifications, additions or deletions to that law, that is when that will occur. I hope I have answered your questions. Thank you.

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

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House: I also would say that this doesn't apply to forfeitures. It is just fines, I believe. I would go on to say to keep in mind that we are talking about two different things here. We are talking about protection from abuse and protection from the harassment and we are talking about stalking. It is two different things. You don't need the protection from abuse or protection from harassment to prove a stalking case. The Maine Chiefs' of Police Association opposed the surcharge on these fines because in the 116th Legislature they tried to get a surcharge tacked onto the fines for training and the Legislature would not go along with that. They feel that any further surcharges placed on fines should go toward police training. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: The statement that was just made on the Police Chiefs' opposing this bill does not make it right.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bridgewater, Representative Wheeler.

Representative WHEELER: Mr. Speaker, Men and Women of the House: I am standing here today and I am not doing it very lightly either. I believe that the stalking legislation is very important legislation. In fact, I suggested in committee that it come out as emergency legislation to give the law enforcement agency the tool to combat this very serious crime. In order to attach a surcharge onto the fines that ordinary citizens are going to pay, I had to vote against it. If we do this the way that I think government should do and send money that you acquire as it comes in, after it is in you spend it, that is going to take time. If you spend it before you earn the money, then I think that is wrong. If we wait for a year or a year and a half and get the \$250,000 then the federal money that is going to be available will have taken care of this. You will have the computer systems. If you spend the money up front before you get it from the fines, then I think that is all together wrong. That is one of the reasons why I oppose the legislation. Thank you.

Representative MITCHELL of Vassalboro requested a roll call on the motion to accept the Minority "Ought to Pass" as amended 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 SPEAKER PRO TEM: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Mr. Speaker, Men and Women of the House: This thing boils down to when we are going to do this and when we are going to require this action of the police officers working together as a team with the courts and all the providers. Right now out there, from my experience, is we are playing like "Abbott and Costello, who is on first" when it comes to protection orders and harassment orders and the serious problem of stalking. If it does come down to fines on motor vehicles, I don't know any grandmother out there that is not willing to pay the extra \$1.50 to make sure this problem sticks. A \$77 fine on speeding might go to \$78.50. Big deal. Mom and pop out there are willing to pay that for safety. I hope we go ahead and vote the Minority "Ought to Pass."

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

ROLL CALL NO. 337

YEA - Adams, Ahearne, Ault, Bailey, Barth, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, Carleton, Carr, Chartrand, Chase, Chick, Clark, Cloutier, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Donnelly, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gould, Green, Greenlaw, Hartnett, Hatch, Heesch, Hichborn, Jacques, Johnson, Jones, S.; Joseph, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lemaire, Lemont, Lovett, Luther, Madore, Marshall, Martin, Mayo, McAlevey, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Ott, Paul, Perkins, Poulin, Pouliot, Povich, Reed, G.; Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stevens, Stone, Strout, Thompson, Townsend, Treat, Tripp, Tufts, Tuttle, Tyler, Vigue, Volenik, Waterhouse, Watson, Winglass, Winn, The Speaker.

NAY - Aikman, Bigl, Birney, Clukey, Cross, Gooley, Guerrette, Heino, Jones, K.; Joy, Joyce, Lane, Layton, Libby JD; Lindahl, Look, Lumbra, Marvin, McElroy, Nass, Peavey, Pendleton, Pinkham, Rice, Robichaud, Stedman, Taylor, True, Underwood, Wheeler, Whitcomb, Winsor.

ABSENT - Buck, Campbell, Chizmar, Dunn, Farnum, Lemke, Libby JL; Nickerson, Plowman, Poirier, Reed, W.; Truman.

Yes, 107; No, 32; Absent, 12; Excused, 0.

107 having voted in the affirmative and 32 voted in the negative, with 12 being absent, the Minority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "B" (H-829) 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 "B" (H-829) and sent up for concurrence.

The House was called to order by the Speaker.

BILL HELD

Bill "An Act Concerning Referendum Reform for School Budgets" (H.P. 657) (L.D. 880)

-In House, Bill and all accompanying papers indefinitely postponed.

-HELD at the Request of Representative AULT of Wayne.

On motion of Representative AULT of Wayne the House reconsidered its action whereby the Bill and all accompanying papers were indefinitely postponed.

On further motion of the same Representative, tabled pending the motion to indefinitely postpone the Bill and all accompanying papers and later today assigned.

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

On motion of Representative WHITCOMB of Waldo, the House adjourned at 7:00 p.m., until 9:30 a.m., Wednesday, March 27, 1996.

The Speaker resumed the Chair.