

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

# 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  
32nd Legislative Day  
Wednesday, March 27, 1996

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

Prayer by Reverend James L. Lufkin, Village Baptist Church, Kennebunk.

National Anthem by Central High School Band, East Corinth.

Physician for the day, Douglas P. Boyink, M.D., Mount Vernon.

The Journal of yesterday was read and approved.

At this point, the Speaker appointed Representative LOOK of Jonesboro to serve as Speaker Pro Tem.

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

**SENATE PAPERS**

The following Communication: (H.C. 400)

Maine State Senate  
State House Station 3  
Augusta, Maine 04333

March 26, 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 Judiciary, James Varner of Old Town for appointment as a member of the Maine Human Rights Commission.

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 Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-464) on Bill "An Act to Amend the Laws Regarding Employee Leasing Companies" (EMERGENCY) (S.P. 689) (L.D. 1761)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-464).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-464) 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-464) in concurrence.

**Non-Concurrent Matter**

Bill "An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to the Animal Welfare Board, the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council" (EMERGENCY) (H.P. 1159)

(L.D. 1593) which was passed to be engrossed as amended by Committee Amendment "A" (H-843) in the House on March 25, 1996.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-843) and Senate Amendment "A" (S-527) in non-concurrence.

The House voted to Recede and Concur.

**COMMUNICATIONS**

The following Communication: (H.C. 401)

**STATE OF MAINE**

**ONE HUNDRED AND SEVENTEENTH LEGISLATURE  
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

March 26, 1996

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

State House

Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

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

L.D. 975

An Act to Establish the  
Department of Health and  
Family Services

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

Sincerely,

S/Sen. Jane A. Amero

S/Rep. Beverly C. Daggett

Senate Chair

House Chair

Was read and ordered placed on file.

The following Communication: (S.P. 768)

**117TH MAINE LEGISLATURE**

March 26, 1996

Senator Jeffrey H. Butland

Representative Theone F. Look

Chairpersons

Joint Standing Committee on Marine Resources

117th Legislature

Augusta, Maine 04333

Dear Senator Butland and Representative Look:

Please be advised that Governor Angus S. King, Jr. has withdrawn his nomination of Jennifer S. Bichrest of Brunswick for appointment as a member of the Marine Resources Advisory Council.

Pursuant to Title 12 MRSA, Section 6024, this nomination is currently pending before the Joint Standing Committee on Marine Resources.

Sincerely,

S/Jeffrey H. Butland

President of the Senate

S/Dan A. Gwadosky

Speaker of the House

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

Was read and referred to the Committee on Marine Resources in concurrence.

**SPECIAL SENTIMENT CALENDAR**

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

Recognizing:

the Bangor High School Boys Swimming and Diving Team, the Rams, and their managers and coaches, for

winning the 1996 State Class A Championship. This is the first time that both the boys and girls teams have won in the same year. They have exemplified the ideals of good sportsmanship and they have earned the admiration and respect of the school, the community and the State. We extend our congratulations and best wishes to them on this achievement; (HLS 1058) by Representative SAXL of Bangor. (Cosponsors: Senator FAIRCLOTH of Penobscot, Representative MORRISON of Bangor, Representative STONE of Bangor)

On objection of Representative SAXL of Bangor was removed from the Special Sentiment Calendar.

On further motion of the same Representative, tabled pending passage and specially assigned for Thursday, March 28, 1996.

the Bangor High School Girls Swimming and Diving Team, the Rams, their manager and their coaches, for winning the 1996 State Class A Championship. This is the first time that both the girls and boys teams have won in the same year. They have exemplified the ideals of good sportsmanship and they have earned the admiration and respect of the school, the community and the State. We extend our congratulations and best wishes to them on this achievement; (HLS 1059) by Representative SAXL of Bangor. (Cosponsors: Senator FAIRCLOTH of Penobscot, Representative MORRISON of Bangor, Representative STONE of Bangor)

On objection of Representative SAXL of Bangor was removed from the Special Sentiment Calendar.

On further motion of the same Representative, tabled pending passage and specially assigned for Thursday, March 28, 1996.

#### REPORTS OF COMMITTEES

##### Ought to Pass Pursuant to Joint Order (H.P. 1339)

Representative REED from the Committee on Taxation on Bill "An Act to Extend the Milk Handling Tax" (H.P. 1372) (L.D. 1880) reporting "Ought to Pass" Pursuant to Joint Order (H.P. 1339)

Report was read and accepted. The Bill read once.

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

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

##### Ought to Pass Pursuant to Joint Order (H.P. 1290)

Representative ROSEBUSH from the Committee on State and Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1996 (EMERGENCY) (H.P. 1373) (L.D. 1881) reporting "Ought to Pass" Pursuant to Joint Order (H.P. 1290)

Report was read and accepted. The Bill read once.

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

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

#### CONSENT CALENDAR First Day

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

(H.P. 1217) (L.D. 1667) Bill "An Act to Improve Tribal and State Relations by Strengthening the Maine Indian Tribal-State Commission" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-856)

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

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

#### ENACTORS

##### Emergency Measure

An Act to Clarify Certain Provisions Relating to Workers' Compensation Self-insurance (S.P. 635) (L.D. 1643) (C. "A" S-493)

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 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

##### Emergency Measure

An Act to Implement Performance Budgeting in State Government (S.P. 700) (L.D. 1790) (Governor's Bill) (C. "A" S-502)

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. 104 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.

An Act to Implement the Recommendations of the Committee to Study the Operations of the Governor Baxter School for the Deaf (H.P. 370) (L.D. 505) (C. "A" H-787)

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

An Act to Enable the Loring Development Authority to Establish the Loring Job Increment Financing Fund and to Impose Term Limits on Trustees of the Authority (H.P. 1266) (L.D. 1741) (C. "A" H-799)

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.

An Act to Amend the Home Health Laws (H.P. 1303) (L.D. 1784)

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.

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

The Speaker resumed the Chair.  
The House was called to order by the Speaker.

#### UNFINISHED BUSINESS

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

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

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)

TABLED - March 26, 1996 (Till Later Today) by Representative STROUT of Corinth.

PENDING - Adoption of House Amendment "A" (H-852) to Committee Amendment "A" (H-847)

Representative STROUT of Corinth moved that House Amendment "A" (H-852) to Committee Amendment "A" (H-847) be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: This amendment that is being offered was presented to the committee earlier this session. The committee dealt with this issue and the committee, I feel confident that I can say today, is unanimous in our feelings that this amendment should not be adopted. This amendment amends the existing provision, L.D. 1639, that allows women who are in imminent danger of serious bodily injury or death to be allowed to file for confidential drivers license status, provided they demonstrate the need. Current law allows for certain law enforcement personnel and judges dealing with high profile cases to exercise that status. We have about 500 requests each year. As a result of the request from the Attorney General's Office, the Office of the Secretary of State met with the Commissioner of Public Safety and the Attorney General's Office to develop legislation to protect those individuals who have demonstrated such needs. This house paper goes much further than that. It allows any person through a written request, along with a protection order, to be allowed this status. The Secretary of State agreed with the Attorney General's Office and the Commissioner of Public Safety that these requests should be made very narrow and not just demonstrated by a protection order only. The Secretary of State's Office agreed to absorb this work and treat them similar to law enforcement personnel. This function is done by the secretary of the Motor Vehicle Department and the everyday duties and responsibilities. If this amendment should pass I believe that the department would not be able to absorb the workload associated with it. The crimes bill recently passed by Congress requires all motor vehicle agencies by August of 1997 to have developed and implemented a program to hold such information confidential. Language currently in L.D. 1639 was just a stop-gap measure until the federal requirements are implemented. I would also

suggest that the Attorney General's Office and the Department of Public Safety do not have the resources today to handle the number of potential requests. As I stated earlier, this was just for those, with or without a protection order, that could document the need and meet the requirements. As I said earlier, we looked at this issue when we put the provision in the motor vehicle bill that would tide us over until the federal requirements come out next year. That is why I am moving the indefinite postponement of this amendment.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: The amendment that I have proposed to the transportation omnibus bill can be found in your binders. It has a filing number of H-852 and I would like to tell you a little bit about why I put this in and why I disagree with my colleague from the Transportation Committee, Representative Strout. In the first session of this Legislature I did submit a bill that would keep confidential motor vehicle records. Let me back up for a minute, for those of you who didn't know, our Motor Vehicle Bureau sells motor vehicle records, be they drivers licenses or registrations of automobiles. In the last 24 hours I have probably spoken to 50 or 60 of you and I thank all of you who have listened to me and for so many of you agreeing with me and my point here. What was also amazing was that so many people were surprised to hear that these records of theirs, their driving and ownership of a vehicle, were being sold. It's the goods that they sell over there for \$5 a pop. It makes a lot of money for the Secretary of State's Office and they provide information. I will tell you, when I presented a bill in the first session it was to keep all records private because I felt the citizens of Maine had a right to this privacy. I know that Representative Dore of Auburn had also put a bill in like this in the 115th. It was defeated. In the first session of the 117th she submitted a bill which would allow people to opt, yes or no, for having these records shared. In every case the Taxation Committee unanimously turned down our requests. I feel this is very important so I brought this to you as an amendment before this House because I thought all of you should hear the debate. I thought all of you should have a say whose records are confidential and why they might be so.

In my committee on the Judiciary, we deal with some of the real horrors of what happens in Maine society. People who are terrorized, people who are battered, abused, and we do a great number of things to try and protect these people so that they can live as normal as possible the lives that all of us want to live. People who are terrorized by perpetrators in our society may go to the court and obtain a protection order. It may be a protection from harrassment, protection from abuse, and none of us would argue about the right to have those orders. By the way, in Section A of my bill there is a lot of references to Maine statutes so the numbers can sometimes be confusing, that's just referencing the points in statute where we allow for these protective orders to be put out. Last night we debated the stalking bill, impressive numbers we put up on the board as we realized some people need extra protection. I would submit to you that this amendment is one more part of that protection.

Imagine, if you will, a woman abused and battered by someone she has been in a relationship with, seeks relief from the court to keep this perpetrator, I keep saying that but you know there are other words for these people, they are not kind and we do not want them on the record, but she goes to the court and seeks protection. The protective order is given, often saying the person must stay a certain distance away from them, not go to their place of work. I can imagine, in extreme cases, where this victim feels that the only way to really ensure their safety is to relocate, to move to someplace where the person who is terrorizing them doesn't know where they are. Can you imagine making such a move, making your new address confidential, perhaps an unlisted phone number, and then this perpetrator walks into the Secretary of State's office, lays down \$5 and says give me the records on Susie Smith, or whoever. For \$5 they just purchased the new location of their victim. In Judiciary, as I said, we work on this all of the time. Our courts handle these cases, hundreds of them. Think of all that effort, money, energy of state government that goes into protecting the bodies and lives of Maine's abused citizens. Think also then of another branch of this government for \$5 undoing that. It's unconscionable.

I thank the Transportation Committee for sitting down with me yesterday. We agreed to disagree. I think it's more because we serve on different committees of jurisdiction. I work on the Judiciary and deal with a lot of difficult problems in our society, and they deal with transportation. I hope they understood that by this amendment all I am trying to do is to lend perhaps some of the expertise that I gathered here in these two years to their duties and their jobs. That's all I'm trying to do. One of the members asked me if I had a constituent that needs this as a personal request. I said no, I don't know anyone who has a protective order, but I have met many of these people before our committee and I have said I have had women weeping before us, begging for changes in the law so that they can secure their life and their safety, and I felt compelled to do something about it, because as I said, we have government doing one thing on one hand and then completely negating those efforts with the other.

In August of 1997, because of an amendment passed in Washington, submitted by Senator Boxer of California, all citizens in this country who get drivers licenses and have motor vehicle registrations will be able to opt in or out of having information on them sold. You may say we can wait 18 months and have that relief. For some, 18 months may be too late. Also, looking at my drivers license, I ask any of you to do the same, mine expires March 4 of the year 2000. It's my understanding that opting in or out, allowing your records to be sold, will only happen as you renew your drivers licenses. In Maine, licenses are issued for ten years. So, imagine someone who at some point in this year has to renew their drivers license, they would not be able to avail themselves of the Boxer Amendment, the opting in or out, until the year 2006. I submit, for those who are terrorized and beaten that is a long, long way off. You have also heard that the system may not be able to handle these requests. About 7,000 protection orders are issued in the State of Maine every year. I don't think that that is going to generate 7,000 requests for privacy, because in many

cases the victim simply wants the order to keep the person away, and as many of these protection orders are issued during unseemly divorces, the time of their need sort of comes and goes. There will be a few people who will feel so unsafe that they will feel compelled to move, to relocate and keep that location secret, but I don't think that it is going to be a great number.

Finally this year the Bureau of Motor Vehicles and the Secretary of State's Office acknowledged that there are cases where we shouldn't be selling the location, also the weight, hair color, eye color of Maine citizens. So the bill coming out of the Transportation Committee, if you look at H-852, section B is in that bill. It allows confidentiality of records in a very narrowly defined case, but only if the victim first clears the hurdles of the Secretary of State's office, then goes to the Attorney General, then goes to the Commissioner of Public Safety. A lot of hoops to clear. A lot of bars to jump over, when, in fact, the courts have done this already. The courts have issued the protection orders and said you are an endangered person, you are threatened. For those of a fiscally conservative mind I would say my amendment streamlines government. It says you've got the protection order, we agree, your records are going to be confidential if you are relocating and you want that kept a secret. Why make a person go through all this. I wonder, when they are standing before the Secretary of State and the Attorney General or his designee or the Commissioner of Public Safety, what will they show? Blackened eyes, bruises, lacerations, broken bones. Will that be the testimony they need to be protected? It just seems like too much to put people through. I think this state is big enough and I think our computer systems are sophisticated enough to handle these requests.

On the issue of ability to handle it, we have been told that the motor vehicle computer system is one of the most sophisticated in state government. You know if the police officer pulls over a car, or sees a car parked suspiciously on the street, they can run the plate. In a matter of minutes they tell them the plate number and they have the information, it should be a blue Dodge, 1987. If any of you have gotten a speeding ticket for a traffic infraction, you know how quickly that shows up on your record. It's there right away and the insurance company knows about it and your rates are determined accordingly. So, I find it ironic that a system that can check the registration of a vehicle within minutes, that can give insurance companies your driving record within minutes, and can provide to the general public, including marketers, information about all the people in a certain town who own Chevrolets, that's what this is used for by the way, marketing, it's sophisticated enough to do all those things, yet it's not sophisticated enough to protect Maine citizens. If it isn't, we need a new system. I think it is. So, I'm asking all of you to vote against the indefinite postponement, to help these people, to support my amendment as we move to that. I thank you for your patience and I look forward to your vote.

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: I think the amendment proposed by Representative Hartnett addresses a real problem

we have in this state, but I am concerned if this amendment passes we'll be passing a solution that will, in some ways, not be adequate and may, in fact, give people an idea that they are protected and I'm concerned that they may not be. The Transportation Committee, after hearing of this problem with the release of this information, did work with the Attorney General's Office and with the Secretary of State and the Bureau of Motor Vehicles to address this, as well as all those parties thought it could be addressed over the next year based on the technology they have and the human resources they have. The amendment in the bill as it stands, without this floor amendment, addresses it as well as can be done at this time, which as has been explained to you, if people in this position who are definitely threatened in terms of bodily harm address the Secretary of State and Motor Vehicles, and request that the information be withheld it will be withheld, and whether or not they have a protection order it will be withheld. They do have to make a case to the Secretary of State's Office in order to have that done, but it can be ensured that the information will not be released. If, however, we open this to anybody who has received a protection order, which could be in the thousands each year, there simply is not the technology available right now within the department to protect all those records. It's done right now basically by human beings, not by computer, and I think any of you have heard enough from constituents who have had problems with different state agencies where things don't happen when they should and they take longer than they should, even though people guarantee that they would have been done by a certain date. We all know the foibles of state agencies and I think if here we have a department telling us they will have trouble implementing it, and we somehow think by forcing them into it sooner than they can it will happen, I think we are second guessing those who really are going to be doing the work and I think it would be foolish of us to expect that they can do it because we want it to happen. What is happening is an order to address the requirements of the Boxer Amendment in 1997 and the department is making the transition to a system where anybody in any situation can have their motor vehicle information held privately, but to make that transition to have the adequate software in place by then will take some time and resources. It will be done by August 1997, but I think in the time between now and then the best that we can do is the situation that is in the bill as it stands. There is simply not enough resources and I think if we pass this today, and if everybody who requests it thinks that their records are protected, there certainly is the danger that it won't happen in time. It won't happen as effectively as we would like to think state computers can operate. That might be less of a problem if somebody's check is late or if a form isn't issued on time, but in this kind of case where somebody is expecting adequate protection and it doesn't happen, I think it would be tragic simply because we felt we had to rush the time schedule that the department has set for themselves on this. Certainly the Secretary of State's Office, the Attorney General's Office, are committed to making this happen. They see the problem and they are addressing it in the timetable that makes sense to them. I think we should allow them to begin the orderly transition to making this information private, as it should be, rather than

jumping the gun and rushing it and expecting that something that is unrealistic can happen because we want it to. I hope you will join me in indefinitely postponing this 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 rise in opposition of the motion and in favor of Representative Hartnett's amendment, and I hate to disagree with Representative Chartrand because he is usually right in most things. I guess I want to just disagree with something that we have heard, that DMV just won't be able to handle this. I want to share with you the experience I have had just in the last two years as a legislator with DMV. In our Banking and Insurance Committee, one of our bills was involving trying to make sure more people had car insurance. It is required in this state, but our compliance level isn't as high as we had hoped, and so we had a bill in and we had the top bureaucrat from DMV in there and he dragged his feet the whole time, saying DMV is just going to break down if you ask them to fill out a form. If you ask them to do that they don't know what will happen but they can't do it. I have had an opportunity to observe on the Criminal Justice Committee the same guy representing DMV every time that committee wanted to do something through DMV, dragging his feet on any requirement that DMV do some extra work. Now, once again, true to form they are dragging their feet again to do this very important thing. This is right in line with the stalking bill that we passed overwhelmingly last night. You know, not everyone who gets a protection from abuse order is going to ask for this. But even if they did, it's not that easy to get a protection from abuse order. The judges often have a hearing. It's a tough thing to get and you shouldn't make them go through more hoops, Representative Hartnett is correct on this. I think we need to tell DMV who is in charge. Yes, maybe they will have to do a little extra work. I say let them. It's important. Thank you.

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

Representative NASS: Mr. Speaker, Men and Women of the House: My story today will be very similar to what Representative Gates has just talked about. The one instance that DMV appeared before the Judiciary Committee was a sorry appearance. Basically, they seem to be unwilling to do anything to deal with problems that are very easily within their grasp and very easy to do something about. It seems ironic to me that we are spending so many dollars in our court system, prosecuting and getting protection from abuse orders where they should go, and at the same time DMV is not willing to be supportive of this activity. I think the time is now to do something about this. We don't need to wait. They seem to have, or should have, within their grasp a ready and easy fix for this. All they have to do is recognize a protection from abuse order issued by a judge. The proposal as issued by the Transportation Committee sets up a more difficult situation with many more hoops to jump through. This is very easy, just one piece of paper from a judge to make this record change necessary to protect the people of Maine. Thank you.

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: Just to give you an idea of the numbers in terms of abuse orders, there are about 6,000 issued now and that probably is going to rise toward 7,000 over the next year while this amendment would be in effect if it passes. We have heard a lot of criticism about the department, so I do question how a department who has had so much trouble satisfying these committees is expected to comply with this and do the job well with the obvious glitches in their system. They will drag their feet as you have implied on this issue too. The problem with that would be the protection we seek may not be affected unless it is done according to the proper time table for affecting it. I would ask you to question the belief that we can make them do it now because we want to when we are being told by a number of parties involved that it will be very difficult to implement. I think on an issue of this importance we should be careful in doing something that feels good here today and hoping that it will have the effect that we want. Thank you.

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: I don't think that any of the committee members on Transportation are opposed to what the proponents of this amendment have said today. Let me tell you that over the last year and three months we have looked at this issue, and again as recently as two weeks ago we reviewed this proposal again, and we just felt at this time that we couldn't implement what this amendment will do. I guess if you should adopt this amendment my guess is that you will have to have a fiscal note on this to take care of this between now and next year. I would ask any of the proponents of this amendment if they are willing to come forward and present us with the money to do this.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: First I would like to put a little bit of a face on it. I did have a constituent that I worked with, a young woman with three children, who not only had to move, give up her subsidized housing, but come up with a security deposit, sell her vehicle which was an easily recognizable vehicle and move, without telling any of the people where she lived or where she went. She went to these lengths to avoid being found again by the person who almost killed her. She had a protection from abuse order and she went through a huge expense to move, not everybody who gets a protection from harassment or abuse orders moves. If it's severe enough they move and they should be able to count on the fact that somebody, after they have spent \$1000 moving, that somebody with \$5 can find out where they went. I'm asking you to defeat the motion to indefinitely postpone. I don't think it's going to be an overwhelming number of requests that come into the Secretary of State's Office but I do know that this mom didn't have time to trot around to three different agencies in order to receive that kind of protection. I'm sure the Secretary of State, in selling these lists, is making enough money selling it to Nutri-System. I always wondered how they got my address. They must have been put in a weight limit they wanted to see, but still, they are selling the lists. It is certainly worth it to

protect the number of people who need to get up and move away from the person who is trying to hurt them. Thank you for your support.

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

Representative BOUFFARD: Mr. Speaker, Ladies and Gentlemen of the House: The stalking bill that we passed yesterday, which was widely debated, and you know that in that stalking bill it came out that it would cost at least a quarter of a million dollars for the courts to upgrade the system in order to be effective. The Department of Motor Vehicles has the same computer that the Justice Department has. It is sophisticated but it is not up to snuff to be able to take care of every problem that exists, so, therefore, the Representative from Corinth is absolutely correct. If this amendment is tacked onto this, it will add a fiscal note, and unlike the stalking bill that we passed last night, the cost to pay for this upgrading of the system has been implemented with a \$2 surcharge on fines. I would assume that the fiscal note for the Department of Motor Vehicles is probably close to the same thing, a quarter of a million dollars, and therefore it might involve a surcharge in your license fees. If somebody is willing to up the license fees and didn't have the Governor veto the whole thing because he doesn't want any extra taxes or fees, then probably you should go along with Representative Hartnett's amendment. Otherwise, I think that the Department of Motor Vehicle has done their homework and are accommodating those who are in the strictest of consequences. The figure was thrown out to us in the committee hearing that there is approximately 500 people that they do protect the confidentiality for. You're increasing that from 500 to 6,000 or 7,000 and according to statistics there is an increase yearly of at least 500 extra, then I would have to say that the fiscal note that would be added on to this amendment will be quite a bit. Thank you.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I'll be brief. I'm looking at this amendment and I see no fiscal note. What I have come to learn in my year and a half on the Appropriations Committee is we don't have the resources means we don't want to, this is not a priority for us. I'm tired of that attitude and I think it's time that we send a message, just do it.

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

Representative FARNUM: Mr. Speaker, Men and Women of the House: We have a law in place now that will take care of 99 percent of all the inquiries now. They want to put a law into place which is going to take additional technology, additional computers, and additional help. By the time we get this all done the federal law will be in place and we will have spent a lot of money for nothing. Thank you.

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: I just want to relate an example of the current system, because a good friend of mine



who sits in this chamber was recently doing a mailing, using a list of addresses from the famous DMV computer. One of those that came out has been dead 20 years. I hope they will become a lot more effective in implementing this if this passes than they are currently. I personally do question how soon that could happen. Thank you.

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

Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: There are those of us here in the House who may or may not agree with the state or other organizations selling names to businesses. This is not the issue. We are not going to take care of this today. Many of us here in the House believe in individual privacy. We believe that we shouldn't have our names around. This isn't the issue. The issue today is how do we best protect someone who might be battered, or someone who has a protection order out on an individual. I would ask you to support the indefinite postponement of this bill. It comes from the Transportation Committee with a unanimous support. This problem will be taken care of to the best of our ability in due time. Thank you.

The Chair ordered a division on the motion to indefinitely postpone House Amendment "A" (H-852) to Committee Amendment "A" (H-847).

A vote of the House was taken. 24 voted in favor of the same and 76 against, the motion to indefinitely postpone House Amendment "A" (H-852) to Committee Amendment "A" (H-847) was not accepted.

Subsequently, House Amendment "A" (H-852) to Committee Amendment "A" (H-847) was adopted.

Representative STROUT of Corinth presented House Amendment "B" (H-850) to Committee Amendment "A" (H-847) which was read by the Clerk and adopted.

Committee Amendment "A" (H-847) as amended by House Amendments "A" (H-852) and "B" (H-850) 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" (H-847) as amended by House Amendments "A" (H-852) and "B" (H-850) thereto.

**SENATE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (S-499) - Minority (4) "Ought Not to Pass" - Committee on Appropriations and Financial Affairs 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)**  
- In Senate, Reports read and the Bill and accompanying papers recommitment to the Committee on Appropriations and Financial Affairs.  
TABLED - March 26, 1996 (Till Later Today) by Representative JACQUES of Waterville.  
PENDING - Acceptance of Either Report.

Subsequently, the Bill and all accompanying papers were recommitment to the Committee on Appropriations and Financial Affairs in concurrence.

On motion of Representative CARLETON of Wells, the House recessed until 2:30 p.m.

(After Recess)

The House was called to order by the Speaker.

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

**SENATE PAPERS**

The following Communication: (H.C. 402)

Maine State Senate  
State House Station 3  
Augusta, Maine 04333  
March 27, 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 Insisted and Joined in a Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Amend the Laws Concerning Commercial Whitewater Rafting" (S.P. 719) (L.D. 1820). President Jeffrey H. Butland appointed the following conferees:

Senator HALL of Piscataquis  
Senator MICHAUD of Penobscot  
Senator MILLS of Somerset

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

Was read and ordered placed on file.

Reference is made to Bill "An Act to Amend the Laws Concerning Commercial Whitewater Rafting" (EMERGENCY) (S.P. 719) (L.D. 1820)

In reference to the action of the House on Tuesday, March 26, 1996, whereby it Insisted and Asked for a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative MITCHELL of Vassalboro  
Representative KEANE of Old Town  
Representative PERKINS of Penobscot

**Divided Report**

Majority Report of the Committee on Legal and Veterans Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-517) on Bill "An Act to Clarify Definitions Under the Laws Concerning Games of Chance" (EMERGENCY) (S.P. 479) (L.D. 1303)

Signed:

Senators:

FERGUSON of Oxford  
STEVENS of Androscoggin  
CHIZMAR of Lisbon  
TRUE of Fryeburg  
CARR of Hermon  
GAMACHE of Lewiston  
BUCK of Yarmouth  
LEMONT of Kittery

Representatives:

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (S-518) on same Bill.

Signed:

Senator: MICHAUD of Penobscot  
Representatives: NADEAU of Saco  
FISHER of Brewer  
LABRECQUE of Gorham  
MURPHY of Berwick

REED of Falmouth  
POIRIER of Saco  
DORE of Auburn  
KEANE of Old Town

Came from the Senate with the Majority **"Ought to Pass"** as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-517).

Was read.

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

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

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-532) on same Resolve.

Signed:

Sensor: CAREY of Kennebec  
Representatives: TUTTLE of Sanford  
MURPHY of Berwick

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

Was read.

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

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

#### Divided Report

Majority Report of the Committee on **Appropriations and Financial Affairs** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-522) on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$26,500,000 to Investigate, Abate, Clean up and Mitigate Hazardous Substance Discharges, to Clean Up Tire Stockpiles, to Construct Water Pollution Control Facilities, to Close and Clean Up Municipal Solid Waste Landfills and to Address Environmental Health Deficiencies in Drinking Water Supplies" (S.P. 741) (L.D. 1849) (Governor's Bill)

Signed:

Sensors: HANLEY of Oxford  
BERUBE of Androscoggin  
Representatives: TOWNSEND of Portland  
KERR of Old Orchard Beach  
AIKMAN of Poland  
OTT of York  
JOSEPH of Waterville  
POULIOT of Lewiston  
SIMONEAU of Thomaston  
MORRISON of Bangor  
DONNELLY of Presque Isle  
DIPIETRO of South

Portland

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

Signed:

Sensor: BEGLEY of Lincoln

Came from the Senate with the Majority **"Ought to Pass"** as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-522).

Was read.

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

#### Divided Report

Majority Report of the Committee on **Taxation** reporting **"Ought Not to Pass"** on Resolve, to Reimburse a Lumber Company in Connection with Sales Tax Paid by the Company (S.P. 747) (L.D. 1857)

Signed:

Sensors: HATHAWAY of York  
FERGUSON of Oxford  
Representatives: TRIPP of Topsham  
BARTH of Bethel  
GREEN of Monmouth

#### REPORTS OF COMMITTEES

##### Divided Report

Majority Report of the Committee on **Natural Resources** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-857) on Bill "An Act to Amend Certain Laws Administered by the Department of Environmental Protection" (EMERGENCY) (H.P. 1222) (L.D. 1672)

Signed:

Sensors: LORD of York  
HATHAWAY of York  
Representatives: DEXTER of Kingfield  
GOULD of Greenville  
POULIN of Oakland  
MERES of Norridgewock  
WATERHOUSE of Bridgton  
DAMREN of Belgrade  
MARSHALL of Eliot

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "B" (H-858) on same Bill.

Signed:

Sensor: RUHLIN of Penobscot  
Representatives: BERRY of Livermore  
SHIAH of Bowdoinham

Was read.

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

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

##### Divided Report

Majority Report of the Committee on **Banking and Insurance** reporting **"Ought Not to Pass"** on Bill "An Act to Control Health Care Costs and Improve Access to Health Care" (H.P. 1277) (L.D. 1753)

Signed:

Sensors: ABROMSON of Cumberland  
SMALL of Sagadahoc  
Representatives: JONES of Pittsfield  
VIGUE of Winslow  
CAMPBELL of Holden  
GUERRETTE of Pittston  
LUMBRA of Bangor

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-859) on same Bill.

Signed:

Senator:

Representatives:

McCORMICK of Kennebec  
GATES of Rockport  
MAYO of Bath  
SAXL of Portland  
CHASE of China  
THOMPSON of Naples

Was read.

Representative VIGUE of Winslow moved that the House accept the Minority **"Ought to Pass"** as amended Report.

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

#### Divided Report

Majority Report of the Committee on **Business and Economic Development** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-860) on Bill "An Act to Establish the Board of Complementary Health Care Providers and to Regulate the Practice of Naturopathic Medicine" (H.P. 1351) (L.D. 1852)

Signed:

Senators:

Representatives:

HARRIMAN of Cumberland  
GOLDTHWAIT of Hancock  
CIANCHETTE of Somerset  
ROWE of Portland  
SIROIS of Caribou  
REED of Dexter  
DAVIDSON of Brunswick  
RICHARD of Madison  
LEMONT of Kittery  
POVICH of Ellsworth  
CAMERON of Rumford

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

Signed:

Representative:

Was read.

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

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

#### CONSENT CALENDAR

##### First Day

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

(H.P. 1112) (L.D. 1560) Resolve, to Reduce Reliance on the Property Tax for School Funding Committee on **Education and Cultural Affairs** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-861)

(H.P. 1321) (L.D. 1808) Bill "An Act to Increase the Reimbursement Levels for Forest Fire Suppression Costs" Committee on **Agriculture, Conservation and Forestry** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-862)

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

Under further suspension of the rules, 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.

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

An Act to Amend the Home Health Laws (H.P. 1303) (L.D. 1784) which was tabled by Representative JACQUES of Waterville, pending passage to be enacted and later today assigned.

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

#### UNFINISHED BUSINESS

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

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

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 26, 1996 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Passage to be Enacted.

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

An Act to Establish a Sea Urchin Management Plan (EMERGENCY) (H.P. 1252) (L.D. 1714) (C. "A" H-816)  
TABLED - March 26, 1996 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Passage to be Enacted.

On motion of Representative LOOK of Jonesboro, 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-816) was adopted.

The same Representative presented House Amendment "A" (H-865) to Committee Amendment "A" (H-816) which was read by the Clerk.

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

Representative LOOK: Mr. Speaker, Men and Women of the House: Very briefly I want to explain why this is here. We have found with the urchin bill that in it we proposed changing the timing of the licensing and in doing so this will make a very big hole, so to speak, in next year's funding. Therefore, the committee has decided to remove that section of the amendment and keep the licensing time as it is now, which begins in January, to avoid any problems with finances. Thank you.

House Amendment "A" (H-865) to Committee Amendment "A" (H-816) was adopted.

Committee Amendment "A" (H-816) as amended by House Amendment "A" (H-865) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-816) as amended by House

Amendment "A" (H-865) thereto in non-concurrence and sent up for concurrence.

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 26, 1996 (Till Later Today) by Representative AULT of Wayne.

PENDING - Indefinite Postponement of Bill and accompanying papers.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative Ault.

Representative AULT: Mr. Speaker, Men and Women of the House: I urge you to vote against the pending motion to indefinitely postpone this bill and all its accompanying papers so that we could go on and accept the Minority Report. On the Minority Report we have worked to bring swift resolution to what can be a very frustrating process involving approval of the school budget, and it seems to us that every year more school districts adopt a referendum process to approve their school budget. So, again, I urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Barth.

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: This bill pertains only to school boards in school administrative districts and the budget process which the board tries to get the citizens to adopt. We have in many of the school administrative districts referendum voting, and I know there are many in this body who wish we didn't have it and you will find that because we have it, certain horror stories can come about because we have referendum voting. I believe Representative Reed will explain what can happen when a school board and its citizenry does not agree, but for those of you who may not be familiar with referendum voting and school district wide voting let me just explain how this works now.

If a school administrative district has decided to pass the school budget by referendum, the school board presents that budget at a referendum vote. If the vote of the people is not to accept that budget the issue then comes back to the school board and the school board may do one of two things. They may send the issue back out to referendum, the budget, or they may call for a district wide school meeting to settle the budget that way. In the mean time, while this is going on, the school board and the school can spend the proposed budget, even though that budget has been voted down they can spend at the levels of the proposed budget. Personally I find a little bit of a problem with that. I urge you, please, to vote against the indefinite postponement so that we can go on to accept the Minority Report which I believe would help to rectify the situation that more and more school administrative districts are going to find themselves in. If you do that, if you vote against the indefinite postponement, then I will be able to explain what the Minority Report proposes to do. I would urge you to read that before you vote on the indefinite postponement because I think you will find that it helps clarify the situation, makes it

better, and if that is your intent then please vote against the indefinite postponement. Thank you.

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

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: I would like to take a few moments to explain to you why I sponsored L.D. 880. I sponsored L.D. 880, An Act Concerning Referendum Reform for School Budgets, when it was brought to my attention the problems that SAD 46 faced in their budget of 1994/1995. This bill requires that if an article or several articles of the school district budget fail to pass in an initial referendum, a maximum of two subsequent referendums may be held to establish the budget. If no budget has been passed after the third referendum the previous year's operating budget becomes the approved budget. I sponsored this bill because SAD 46 had six referendum votes without a complete voter approved budget under which to operate in 1994/1995. SAD 46 includes Dexter, Garland, Exeter and Ripley, which had been operating under a budget which was passed the previous summer by the board. On January 17, 1995 SAD 46 voted for the sixth consecutive time, voted down four articles that would complete passage of the entire 1994/1995 school budget during a referendum on Tuesday, January 17, 1995. The district budget meeting was held on the evening of February 28, 1995 and a budget was approved by the voters present, less than those present at the previous referendum vote on January 17. The voters feel that when they voted down a budget six times that the board didn't seem to get the message. They feel that a no vote should mean no. The voting citizens do not feel that the district budget meeting voting process is fair. That is why they went to the referendum voting in the first place.

At a district budget meeting, some people are working and they cannot vote. They cannot even attend, therefore they cannot vote at all. They feel the majority of those attending are teachers, spouses, bus drivers, janitors and so forth. I realize that they have a right to go, and if it was a basketball game they would probably fill the gym, but for some unknown reason they just don't seem to turn out at a school district budget meeting. They also feel intimidated to stand up and speak and fear retribution to their children if they do. I know this would never happen, you think it can't happen, but it does happen. At that last budget meeting they asked for a written ballot and they were denied. I know that was against the law, but the moderator didn't understand so he denied the written ballot. Since I sponsored this bill there have been many more SADs adopt the referendum method of voting because they are not satisfied with the district budget meeting voting process. This is a problem in many districts of the state, which I am sure you are well aware of now in your own districts, and if you are not aware of it you will be shortly because many other people are beginning to have the same problem. The Department of Education feels that the current law, which enables the school board to determine whether to continue with referendum votes or to hold a district budget meeting leaves the decision with respect to budget adoption to the school board, which is most able to reflect local thinking. I have to disagree with this because that is the reason we went to the referendum in the first place and the reason that many other districts have gone to referendum

voting. The people paying should have the right to vote. On February 14, 1996 there was an interesting article in the Kennebec Journal. A West Gardiner selectman who believes spending is too high has lost a drive to allow the voters to set the annual budget at the polls. He believes the change would encourage more turnout than the current system which allows voters to adopt the annual school budget by a show of hands. Of the 73 school administrative districts in Maine 19 now set their budget by referendum according to the State Department of Education. Supporters who include people tired of paying higher taxes say such votes encourage good turnout and results that more accurately reflect a community's wishes. I urge you to vote against the indefinite postponement and allow the Minority Report. Thank you.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: I would just like to add two comments to the remarks that have been made. I think there is a message out there from the general public that we are failing to get. Frankly, if you look at voter turnout, voter turnout is actually going down and not up. Think about it this year. You started with the presidential primaries. Most small towns are going to have a town meeting, if they have not already had it. We are going to have caucuses at some point. We are then going to have a June primary, then we are going to have a November election. In many small towns we have reached a situation, and then of course you throw in school budgets in those towns that have SADs, you now have another meeting. If you look at the voter turnout, what you are finding is that people are now going downward rather than upward in voter turnout. We haven't gotten the message yet in terms of coordinating times of elections, or anything else.

Secondly, I want you to remember that the reason to indefinitely postpone was made is that what you have before you are two reports prior to the motion. One of them was a study of how it ought to be. That initially was the report from everyone on the committee, pretty much moving in that direction. Then it moved over by some people to go to a Minority Report. I'm going to talk about that because I think you ought to be aware, but let's talk specifically about school budgets. The issue is local control, because under present law, once a municipality has voted to go to a referendum process it goes to referendum for that meeting, then it is the school board, under present law, that decides whether or not to go back to referendum or you go to a budget meeting. My approach is that if you don't have the support of the school board to do whatever it is you want to do, get rid of the school board members. I don't understand why people have to come to Augusta to get what it is they can't get at home. All they've got to do is vote the school board out, change the make up of the school board. You have that right. Everyone has that right. No, since we are only going to get 10 percent of the people to vote, let's come to Augusta and mandate to everyone. Let's mandate everyone that this is the way it's going to be and shove it down the throats of those communities that don't want what it is you are trying to do.

I love now the mandate in the Minority Report. I'm an arbitrator. I do fact finding all the time. Read the Minority Report. You are now going to have

three meetings, three budget meetings, or three votes or whatever it is, and then you are going to have arbitrators set the tax rate for the municipality. You are going to have the school boards picking one. You are going to have the other side pick one, and those two will pick a third. The Minority Report says these three will then set what it is you are paying for taxes in your town. If you don't think that's going to start a revolution I rest my case. You are going to have nonelected arbitrators like me coming into your town and setting your tax rate. Give me a chance at it because I think I can convince two other people, give me enough time. Is that what you want? Don't accept the motion to indefinitely postpone, adopt the Minority Report and we are on our way. I will bet you that the teachers will hire me any day of the week to go into your municipality as they have been doing for the last four years. I rest my case. Thank you.

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

Representative SAVAGE: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote against the pending motion and accept the Minority Report. I have read the Minority Report and I like the Minority Report. My district has three towns in an SAD and I agree with Representative Reed because we vote by referendum, a line failed. They called, the school board called an open meeting. You are surrounded by your children's teachers, their spouses, the janitors, the school board, their spouses, et cetera, et cetera. Who is going to vote against an issue surrounded by those people even if they don't want that issue. In my district the people got fed up to here and at the last open budget meeting they filled the gymnasium. There were so many people there that they were not prepared and it took us until midnight, but they had the nerve to even bring back that line with more dollars instead of reducing that line. I like this amendment. This amendment, the very first article on your warrant, asks if you want future budget meetings to be by referendum, yes or no. You are allowed three of those, not six like what happened in Representative Reed's district, but three. The budget has to be approved by August 1 and then it goes to mediation. I would think under these circumstances we could get a budget approved before August 1 and I urge you to defeat this motion and go on to accept the Minority Report. 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.

---

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

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

A vote of the House was taken and more than one-fifth of the members present and voting having

expressed a desire for a roll call, a roll call was ordered.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: I would like to pose a question to anyone on the Education Committee who can answer this. The town that I represent, or the district that I represent has a referendum voting. If we pass the Minority Report does that mean that after three times of voting we go to mediation?

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: The answer is yes.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bethel, Representative Barth.

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: This problem is not going to go away. For example, this last fall in the November ballot, three of the towns in three different SADs that I represent voted to go to referendum. So this problem is going to get worse and I think we can help it get better. This is local control. It is not arbitration. If after August 1, and you have had your three referendums and you still don't have a budget then eight elected officials, four school board members picked by the school board, and four selectmen picked by the selectmen of all the towns, will get together with a facilitator, a nonvoting facilitator appointed by the Commissioner to work out a budget. In the meantime, if you go into the next fiscal year spending will be for essential services only, not the proposed budget which keeps getting voted down. I urge you to defeat the motion.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House: First I would like to point out that this was a carry over bill from the previous session. The reason it was a carry over bill is because we had substantial discussion on the committee as to whether or not the facts that were presented to us about the referendum process warranted change. There was not agreement on the committee that the information that was presented to us that the referendum process was that broken that we should have a radical departure like is currently taking place. This session when we took the bill under discussion again we looked at any number of different ways that the referendum process might be modified in order to make it better and to address some of the concerns by the municipalities that came to us. We could not come to any agreement that anything that we would do would be substantially better than what is in place. In fact, it was not clear to us on the committee that the number of towns that are affected by this was substantial. Because of that that is why the majority of the members on the committee went with the Majority Report which called for an additional look, an additional study, on this.

The Minority Report would be a radical departure from the way that we currently set school budgets and I find it hard to believe that the Legislature would want to take something as important as passing a

school budget and turn it over to arbitration. I urge you to support the pending motion.

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

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

Representative TUTTLE: Thank you. For anybody on the Education Committee. Does this bill exempt the state from the constitutional requirement for mandates? In my reading of the Minority Report it does. I was wondering what the rationale was. Thank you.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: I didn't completely hear the question but I think if the question was the Minority Report, is it an unfunded mandate? I guess my guess would be yes. I don't know who is going to pay for it except the municipality because there is going to be a cost involved.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bethel, Representative Barth. 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 BARTH: Mr. Speaker, Men and Women of the House. Just in answer to Representative Tuttle's question. Take, for example, the Dexter example that Representative Reed mentioned. They went to referendum six times, each time costing money. The Minority Report limits that to three, so already there is a savings there and probably any kind of expenditures for solving and getting a budget can be done within existing revenues. Remember, it's not arbitration. The selectmen and the school board will sit down and hammer out a budget.

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

Representative WINN: Mr. Speaker, Ladies and Gentlemen of the House: I understand somewhat your frustration and your concerns with this issue. We did discuss it quite a bit. I did want to say for the record that I did not sign onto the Minority Report because the reason why I didn't was not because I intended this to be an employment act for the good Representative from Eagle Lake. I signed onto it, one of the reasons why I signed onto it, was because it was very clear to us, the Department of Education and others, that there was no point in having another study about this issue. They made it very clear that they have studied it and studied it and studied it and they didn't think that there was any redeeming value in studying it again. Therefore I agreed to something that while it most likely is not a perfect solution it was the best solution that we could think of and I think it has a lot of merit. I have seen mediation work very effectively. I think it works very, very well if you give it a chance. I also think that this bill has a lot to offer by giving a drop-dead date, a closing date, a date when a budget will be decided upon, because I think that's important. I have seen a lot of communities where the towns basically eat each other apart and divide the whole community over this issue and I really like

the idea of the date when it is finally resolved and you get on with implementing the school budget and going about educating the children. I guess the last point that really convinced me to sign on to the Minority Report was comments from people on my committee saying well just let them fight it out, just let the local communities fight it out, we don't care what happens at the local level, let them go on fighting and fighting and fighting. So, when choosing between doing nothing and letting the communities continue to fight and bicker and never resolve their differences, or deciding between sending it off to get another fine study, I decided to support this suggestion and I think it has an awful lot of merit. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Unity, Representative McElroy.

Representative McELROY: Mr. Speaker, Ladies and Gentlemen of the House: If you can stand me and my voice for a minute or two I will try to go through this. I really wasn't planning on rising on this because I feel very strongly that the motion that the good Representative from Eagle Lake has presented should be agreed to and passed. In the beginning, being in the 1950s with the SADs, the problems were all taken care of in probably the most democratic process we have in the state, the town meeting. People got together and decided what the budget was going to be. That's when we had plenty of money. Now we don't have much money so it has become a problem with how that money is to be divided in the towns. So people go to referendum, they voted the referendum process in. The referendum process does not allow closure on a budget. You can't come to total closure on that budget so you are going to turn this process over to, with the proposed amendment, mediation. An individual selected by the Commissioner of Education, who will be paid by the state, and they are going to select four school board members and you are going to select four selectmen. One of my small districts has 11 towns. That means that there are 11 board members, that probably wouldn't be any problem to come up with 4 qualified individuals that can work well together. Then you have 11 communities, as I mentioned, that means 33 selectmen are going to come together and they are going to select 4 of them to meet with those board members. Right now they can't agree on a turn around spot for a bus in the winter time. How are they going to come to closure on what they are going to do with an 8 million dollars or 9 million dollars budget. That doesn't work, and you have to have five to three in order to come to a solution, that has got to be done by September. I find the amendment very difficult to take care of, very difficult to deal with. It is going to cause more agony in the communities.

I still feel that the best way is to solve it at an open meeting the way it is currently done. I don't propose, as the previous speaker mentioned, letting them fight it out. I don't believe that that solves anything. I think you do it in a reasonable manner. I just need to mention to you that three years ago I was asked to moderate a meeting. The first thing I said was we were operating by McElroy's Rules. Nobody had any problem with that. I said we are not amending any motions. We had some problems with that but we got it cleared up because I was the moderator and I had watched other people work in a similar position and I just dropped the hammer. We

operated with no amendments and we came out of there with a budget. Half of the group didn't like the way the process went. The next year it was done a different way. The individual allowed amendments to a money motion and at one time there were seven amendments to the main motion. We stayed there until one o'clock. We still came out with a budget. The same people still were complaining that complained about the way the meeting was run the previous year. So no matter what you do there are a group of people that are going to be very difficult to satisfy. I hope that you will support the motion by the Representative from Eagle Lake and we can get on with more significant business of the people of the State of Maine. Thank you.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: I, too, did not plan to speak on this bill, but at home we have a group of taxpayers, a citizens taxpayers group, who came down to Augusta to lobby this bill. What they wanted was very simple, that after three times going to referendum you would either accept what was proposed or you would go back to the previous year's budget. That's what they wanted. It was very straight forward. The choice we have here today is to do a study, or to have a circus. I'm sure the people at home do not want either of these options, and what they wanted they made very plain. We are fast becoming a state of government by referendum and it's because we do not listen. I am prepared to vote to indefinitely postpone this bill and then I am prepared to move to indefinitely postpone Amendment "B" too. You did not do what you were asked to do. Why couldn't you either pass it or just unanimously ought not to pass it? Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Indefinite Postponement of the bill and accompanying papers. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 338

YEA - Adams, Ahearne, Aikman, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Carleton, Carr, Chase, Chick, Chizmar, Cloutier, Daggett, Davidson, Desmond, DiPietro, Donnelly, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gooley, Green, Greenlaw, Guerrette, Hatch, Heeschen, Heino, Hichborn, Jacques, Johnson, Joseph, Joyce, Keane, Kerr, Kilkelly, Kontos, Labrecque, LaFountain, Lemaire, Lemke, Lemont, Lindahl, Look, Lovett, Luther, Marshall, Martin, McElroy, Meres, Mitchell JE; Murphy, O'Gara, O'Neal, Paul, Pendleton, Perkins, Poulin, Pouliot, Povich, Richard, Richardson, Ricker, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Stone, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Winglass.

NAY - Ault, Barth, Birney, Buck, Cameron, Clukey, Cross, Damren, Dexter, Gieringer, Gould, Hartnett, Jones, S.; Joy, Joyner, Kneeland, Lane, Layton, Libby JD; Lumbra, Madore, Marvin, Mayo, McAlevey, Nass, Peavey, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Rosebush, Savage, Stedman, Strout, Taylor, True, Tufts, Waterhouse, Wheeler, Whitcomb, Winn, Winsor.

ABSENT - Bailey, Campbell, Chartrand, Clark, Dunn, Jones, K.; Libby JL; Mitchell EH; Morrison, Nadeau, Nickerson, Ott, Simoneau, Spear, Truman, Underwood, The Speaker.



Yes, 89; No, 45; Absent, 17; Excused, 0.

89 having voted in the affirmative and 45 voted in the negative, with 17 being absent, the Bill and all accompanying papers was indefinitely postponed and sent up for concurrence.

**Senate Divided Report - Committee on Appropriations and Financial Affairs - (12) Members "Ought to Pass" as amended by Committee Amendment "A" (S-522) - (1) Member "Ought Not to Pass" on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$26,500,000 to Investigate, Abate, Clean up and Mitigate Hazardous Substance Discharges, to Clean Up Tire Stockpiles, to Construct Water Pollution Control Facilities, to Close and Clean Up Municipal Solid Waste Landfills and to Address Environmental Health Deficiencies in Drinking Water Supplies" (S.P. 741) (L.D. 1849) (Governor's Bill) which was tabled by Representative JACQUES of Waterville, pending acceptance of either Report.**

On motion of Representative TOWNSEND of Portland, the Majority **"Ought to Pass"** as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-522) 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-522) in concurrence.

**Senate Divided Report - Committee on Taxation - (10) Members "Ought Not to Pass" - (3) Members "Ought to Pass" as amended by Committee Amendment "A" (S-532) on Resolve, to Reimburse a Lumber Company in Connection with Sales Tax Paid by the Company (S.P. 747) (L.D. 1857) which was tabled by Representative REED of Falmouth, pending his motion to accept the Majority "Ought Not to Pass" Report.**

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

Representative KILKELLY: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to reject the motion ahead of us so that we can go on to accept the Minority Report, which is an "Ought to Pass" report. There is an absolute issue of equity here. The situation came about because of computerization of a company and at the time, five years later when the company changed hands but stayed within the family, it was discovered that an error had happened that caused the company to pay double the amount of sales tax over that period of time. When that error was noticed it was immediately reported to the accountant who immediately reported it to the Department of Taxation. In that five-year period the Department of Taxation had, in fact, conducted a sales tax audit of the business in question and had determined that other than underpaying by \$66 the business was in compliance and that everything was fine. When the business changed hands it was determined that the business had, in fact, double paid the sales tax, that was not caught during the state audit. The request in this legislation that I hope we go on to accept is that the amount of money that was overpaid by this business be returned to

this business without interest. There is an acceptance on the part of the business that an error was made and there is some culpability there. There is also a sense of fairness here that the money that the state currently holds that belongs to this business was collected in error and does not belong to the State of Maine, but in fact belongs to this business. But because of the three year statute of limitations that is currently on the books, that amount of money could not be refunded. We are certainly requesting an exception here. There is no question about that. There is a statute of limitations. The statute of limitations is three years. We are asking to go back beyond three years and refund, again I want to be very clear about this, not with interest, but without interest, only the money that this business person paid that they should not have paid in sales taxes. That's the request.

We talk a lot about small businesses. We talk a lot about the importance of small businesses in our economy. We also spend a great deal of time bemoaning the fact that this maybe isn't the most business supportive state. This is an opportunity for us to put his money where our mouth is and support a small business. A small business that has been in business since the early 1900s, is a third-generation family owned business that hires 10 people and pays them a living wage and also pays benefits. There aren't many of those jobs around. There aren't many of those businesses left and I think it behooves this Legislature to accept the fact that an error was made and to move on to reject the motion before us so that we can go on to correct this injustice. Thank you.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you have all listened to the previous speaker, because what she said is absolutely correct. This businessman came in to us and it was not the fault of the state, I will grant you, he came in to us because he had overpaid his sales tax. It seemed to happen when he went to computer in the business. I cannot explain how it happened on the computer because I am computer illiterate. I know nothing about computers. But there was a mistake made and they did overpay their sales tax. It's true, we do have a statute of limitations. The statute of limitations is three years. We also have a statute that if they had come in and audited him and found that he owed money all they had to do was to prove some little thing and they could have opened his books up back ten years, and they certainly would have checked him out and if he owed any money they would have charged him 11 percent interest plus the penalties and probably have put him out of business as they have many little businesses. I have sat down there on Taxation for a number of years. We have worked on tax credits for pollution control for businesses in this state. I have worked on TIFs. I think this is the third time that I have been involved in TIF legislation. This year we have come out with, it will be before you, an ETIF, which is an economic TIF, that's to help businesses who hire 15 or more people. This gentleman, as the previous speaker spoke and said, hires 10 people. Ask him what his wages were. They were from \$8 to \$15 an hour. They had some part-timers and even the part-timers have benefits. There are not many small businesses in this state who



can even afford to pay benefits, let alone part-time benefits. In this state 85 percent to 90 percent of our businesses are small businesses hiring less than 15 people. This man has not come to us for any tax credits. He gets no tax credits. He gets no tax breaks at all. This is a third-generation business. He overpaid his taxes and the state did reimburse him the first three years with interest, which they should have done. I personally believe we should reimburse him for the other \$37,000 plus interest. However I was one of 12 who believe that way, so in order to compromise and not have three reports up here, I agreed to go, because he did say he would negotiate, and I guess he would be happy to get his \$37,000, and I'm sure doing business today in the lumber business he needs that \$37,000. I agreed to go with the other Representative and the Senator on this Minority Report to give him back the \$37,000 which is his money, he overpaid. It does not belong to the state. It never belonged to the state. He did nothing dishonest. He is a very honest man and I think we owe him that money and I just believe so strongly that if I owe the state they come after me, and they would him also, and if they owe me I believe I should have it. I think it is a fairness. I think if we want the small businesses in this state this is just good public relations for this Legislature to say we are not as greedy as people think we are. When you make a mistake we will give you back your money. I realize there is a statute of limitations. That's why this is here before us. It's not the first time we have had a bill. There was a bill back in the early 1990's that was on a gas tax. That bill we reimbursed the money that we owed the money to beyond the statute of limitations. So, we are not setting any precedent here. It has already been set and I hope that you will just go on and defeat the motion on the floor so that we can give this gentleman back the money that we owe him. The State of Maine owes him that money. It is his money, not ours. It's \$37,000 and if we can't be honest enough to do that I guess I'm a little upset. I hope you will vote with the Representative from Wiscasset and myself to defeat this motion and I ask for the yeas and nays. Thank you.

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

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

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

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

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: I take no pleasure in offering the "Ought not to Pass" motion, nor in speaking for it. When you decide to cast your vote on this measure you will, as we were in the Taxation Committee, have to ask yourself whether you will do the thing that you would like to do or whether you will do the thing that is right to do. It's been stated earlier that this is a matter of equity and a matter of fairness, and it is indeed that. It is a matter of equity and fairness to all of the taxpayers

in the State of Maine who have, at one time or another, overpaid taxes. In the particular instance under discussion today there is no question of the facts. The enterprise, in an attempt to upgrade its business, a good faith attempt, installed a computer system to do its bookkeeping if you will. Having spent the majority of my gainfully employed years in the computer business I know, and I suspect that many of you know, that one of the magic words in the installation of computer software is called parallel test. When you install a new computer program you don't just put the software in, hit the button, and say must be right. You check it. In this particular instance the enterprise installed the software, which doubled the sales tax payment. It didn't increase it by a little, two percent or three percent. It wasn't a rounding error. It was double, twice as much as was obligated. This is a relatively small business and there are many men and women in this room who operate or work in small businesses. I ask you, wouldn't you know, wouldn't you kind of feel that something was wrong if your sales tax suddenly doubled and stayed there for five years? I asked the gentleman if he employed an auditor and he said yes he did, from a very prestigious firm. It was suggested to him that perhaps he had to seek a new auditor if it went on for five years and there was not any discovery that this matter was ongoing, doubling his payment of sales tax. I don't enjoy this position. It would be very easy and a feel-good thing to say we will return this money, but how would we then say to the next supplicant who came to this Legislature who says six years ago or seven years ago they overpaid, or twenty years ago they overpaid. The financial impact is indeterminate and it is just not the right thing to do to say well we have a law. We have a three year statute of limitations but in this case, because you are a good and decent person, you run a good business, you employ some folks and you pay benefits, those are all good things, but they are not mitigating the fact that an individual, over a five-year period, didn't mind the store. You may do what you wish. You may do what you would like to do or you may do what is right to do, but if you are going to support the laws of the State of Maine as you have taken an oath to do, I urge you to think carefully about it. Thank you.

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

Representative KEANE: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support the Majority "Ought Not to Pass" Report. I was involved in a little bit of a dilemma. Initially I voted in favor of giving the gentleman his rebate and then I changed my vote. I think for some of the reasons that the good Representative from Falmouth has expressed I changed my vote, and I think there is another more underlying reason I think that was affecting me, and that is respect of the law. Too often today people like the law until it affects them adversely and then they seek to change it by devious means. We are a nation of laws. What makes us great is that we abide by our laws. There is no man or individual that dictates to us what they will do. We make our laws and we abide by our laws. Sometimes it's pretty tough, and in this case it is tough. If this had been a case where the state was responsible for this man's loss, then maybe I would be thinking differently, but that is not the case here. The case was that this man, for five years, had a difficult

and erroneous computer program that caused the error in his bookkeeping. He was reimbursed \$67,000 by the State of Maine for three years. The statute of limitations goes back three years. Now he wants more. Maybe rightfully so and maybe justifiably so, but the law does not provide for that type of action, so he comes to the Legislature and he says for the legislators to change their own law in this particular case. What do you think? I think what about other people that are going to come after this individual? How am I going to, in good conscience, going to say no to these people who might want a deviation from our laws? Then it seems to me that our whole system of laws breaks down. That's why I changed my vote, ladies and gentlemen. Thank you.

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

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

Representative STONE: Thank you. To the members of the committee that heard this case, I'm curious what the response would have been had the gentleman or the business entity before had requested that you go back more than three years if it had been only for \$100 or \$50, rather than in the thousands of dollars that it was? Thank you.

The SPEAKER PRO TEM: The Representative from Bangor, Representative Stone has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Falmouth, Representative Reed.

Representative REED: Mr. Speaker, Men and Women of the House: I can respond only for myself. The amount of money involved is not at issue. It's the principle for me.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I feel I must correct a couple of statements that have been made earlier. The person in question in fact did follow a very logical process in terms of as soon as an issue was discovered, getting in touch with their accountant, their accountant then got in touch with the state. Once the refund was issued for the three-year period for which the law allowed, then there was a question is there some way that we can do this. Is there some way that we can in fact go beyond the statute of limitations? The answer was the only way to do that was through the Legislature. There is nothing devious about that. It would be devious if there was some subversion of the process but in fact this is the process. This is the people's court and if we weren't changing statutes all the time we probably wouldn't have an office called the Revisor of Statutes. That's what we do. In terms of state responsibility, I do feel that there is partial state responsibility in this because the state, in fact, did a sales tax audit within this period of time and determined that this business had underpaid by \$66.69. They found that. What they didn't find was the overpayment. They found the underpayment and not the overpayment. That's where I do believe there is some culpability in terms of the state. The balance here is to say we are not asking for interest because there is obviously some responsibility on behalf of this business. What we are saying is it does make sense however to return to this business person the

money that belongs to that business, the money that was sent in in error and there is a shared responsibility. I feel very fortunate that in this situation I am in a position where I not only can do what feels right, but what I do believe is right. Thank you.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: Very quickly, I think Representative Reed and I have often been perceived as the bookends of the Taxation Committee. I would like to suggest to you that the bookends, and most of the volumes in between, are on the same side of this issue for a reason. Not only the volumes, a few have fallen onto the floor, but most are on the same side and let me tell you why. There is merit in this case, about that there was unanimity of opinion of the committee members. There is merit in thousands and thousands and thousands of cases if you reaudited people from three years back to however further back you wanted to go, who had, in fact, touched upon the Bureau of Taxation in their past dealings, been told everything was okay, and lo and behold later on they find out everything was not okay. Representative Kilkelly is correct when she says there was an audit. It was a simple audit, explained to us by the State Tax Assessor, that is done to make sure that nothing illegal, or indicating anything illegal is being done. That audit does not, in fact, come to the conclusion that there had been no overpayments or underpayments so certified, because it is not a full and complete audit. You only get one of those full and complete audits if fraud is suspected. This taxpayer was not suspected of fraud, did not participate in fraud. There was no fraudulent behavior indicated, and in fact that little \$66 check represents a correction of a simple error. So no one had any reason, from the Bureau's perspective, to look further and do a full charge audit that might have ascertained the overpayment in the prior years. This owner has been paid back for all the overpayment, with interest, the same interest we charge people when they underpay incidentally, we pay to people, they have been paid back in full for the three-year period. The mistake that the computer they bought made is something that they should take up with the person they purchased the computer from, with their own internal auditor, and I hate to give Representative Carleton and my husband a little boost, and some of the others here, but frankly there are attorneys if you think that somebody has done you wrong who you have employed. The State of Maine did not do anyone wrong, and this was not the State of Maine's error. Was it an overpayment to the State of Maine? Absolutely, but we must stop the three-year period or every single one of you will be back here next year with three or four bills for private citizens who have accidentally overpaid. How many of you will be back with three or four bills of private citizens who have accidentally underpaid? We can only afford to take care of accidental overpayments that are over three years old if we can also take care of accidental underpayments that are over three years old. That's the only way you are going to come up with the money to pay for this. It is not this little bill and this little fiscal note. If you vote for this it will compel you to vote for everybody who is over three years old's case who want an error corrected. The state didn't steal this money. This

was an error and wasn't even the state's error. I encourage you to vote with the majority opinion because I think otherwise next year you are going to have a hard time justifying why we have a cut-off date to any one of your constituents. 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: For those of you that have any kind of business, I've got one, I know what it's like. It's not our money. It's not the state's money. Why shouldn't we return it? It makes no sense to me. It's an argument that I would love to argue because every day we go around saying we are for business. Here's your chance to show it. Especially when at this point they are asking for no interest. I don't know how we can have it both ways. There is precedent because it has been done before, as the Representative from Auburn knows and the Representative from Falmouth knows. There have been some before, so this is not a precedent in any manner, shape or form.

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

#### ROLL CALL NO. 339

YEA - Aikman, Barth, Benedikt, Bigl, Brennan, Carleton, Carr, Chase, Chizmar, Clukey, Davidson, Dexter, Donnelly, Dore, Etnier, Gates, Gieringer, Gooley, Green, Greenlaw, Hartnett, Heesch, Heino, Jones, K.; Joyce, Joyner, Keane, Kneeland, Labrecque, LaFountain, Lemaire, Libby JD; Lindahl, Luther, Marvin, Mayo, McAlevey, Meres, Mitchell JE; Nadeau, Nass, O'Gara, Ott, Peavey, Pendleton, Plowman, Poirier, Reed, G.; Richard, Richardson, Robichaud, Rosebush, Rowe, Samson, Saxl, J.; Shiah, Simoneau, Stedman, Stevens, Stone, Taylor, Townsend, Treat, Tripp, True, Tufts, Volenik, Winglass.

NAY - Adams, Ahearne, Ault, Berry, Birney, Bouffard, Buck, Bunker, Cameron, Chick, Cloutier, Cross, Daggett, Damren, Desmond, Driscoll, Farnum, Fisher, Gamache, Gerry, Gould, Guerrette, Hatch, Hichborn, Jacques, Johnson, Jones, S.; Joseph, Joy, Kerr, Kil Kelly, Kontos, Lane, Layton, Lemke, Lemont, Look, Lovett, Lumbr, Madore, Marshall, Martin, McElroy, Murphy, O'Neal, Paul, Perkins, Pinkham, Poulin, Povich, Reed, W.; Rice, Ricker, Savage, Saxl, M.; Sirois, Strout, Thompson, Tuttle, Tyler, Underwood, Vigue, Waterhouse, Watson, Wheeler, Winn, Winsor.

ABSENT - Bailey, Campbell, Chartrand, Clark, DiPietro, Dunn, Fitzpatrick, Libby JL; Mitchell EH; Morrison, Nickerson, Pouliot, Spear, Truman, Whitcomb, The Speaker.

Yes, 68; No, 67; Absent, 16; Excused, 0.

68 having voted in the affirmative and 67 voted in the negative, with 16 being absent, the Majority "Ought Not to Pass" Report was accepted in concurrence.

House Divided Report - Committee on Natural Resources - (9) Members "Ought to Pass" as amended by Committee Amendment "A" (H-857) - (3) Members "Ought to Pass" as amended by Committee Amendment "B" (H-858) on Bill "An Act to Amend Certain Laws Administered by the Department of Environmental

Protection" (EMERGENCY) (H.P. 1222) (L.D. 1672) which was tabled by Representative DEXTER of Kingfield pending his motion that the House accept the Majority "Ought to Pass" as amended Report.

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

Representative SHIAH: Mr. Speaker, Men and Women of the House: Under House Rule 31 I would like to request a germaneness ruling on this amendment and I would like to speak to that.

The SPEAKER PRO TEM: The Chair would advise the Representative that that question is not proper at this time. It would be proper at the time when you adopt the amendment. The Chair recognizes the Representative from Livermore, Representative Berry.

Representative BERRY: Mr. Speaker, Men and Women of the House: I rise today in opposition of this pending motion. So, I don't forget, I appreciate when the vote is taken that it be taken by the yeas and nays.

Representative BERRY of Livermore requested a roll call on the motion to accept the Majority "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 Livermore, Representative Berry.

Representative BERRY: Mr. Speaker, Men and Women of the House: L.D. 1672, the Majority Report and the Minority Report are the same except the Majority Report has a shoreland zoning amendment added to it. This was originally from the DEP omnibus bill. Part of this omnibus bill, in recognition of some of the problems that we have on some ponds in this state, that we can't control our algae blooms, allows us to treat the algae blooms with copper sulfates, which is a heavy metal. This would be in extreme cases. The shoreland zoning bill I feel to be in the same bill will add to the phosphorus in our lakes. I would not support the omnibus bill at all with this amendment to it. I prefer the other report. More from one district has called me to ask that the shoreland zoning be changed, I have received numerous calls asking not to change the shoreland zoning, especially as put forth.

Construction within the shoreland zone threatens the water quality and it threatens it in two ways, phosphates caused by storm water run-off and the nitrates caused by increased burdens on septic systems. One group that this amendment would address would be the septic systems. If it does go I've got to admit that that's a step that needs to be taken. However, I am not satisfied with the amendment and what it proposes to do. Many water districts are concerned that if the water quality is impacted it will be forced to construct a multi-million dollar facility to filter their water. Two towns in district 93 that I represent, Livermore Falls and Canton, use the sand filtration method, others include Winthrop, Newport, Anson, Madison, Eagle Lake, Mars Hill and Blaine water districts. Many districts have been fortunate to avoid expensive filtration systems because they have high quality

water due to resource protection measures, that includes the Portland Water District, Lewiston, Auburn and Brewer water districts.

Another portion of this amendment that I have to admit is a good step is if the building size is increased the mitigation for what would either be a buffer zone or a way to treat the storm water from the roofs, however if I relate this to my town and some of the lay of the land, we've got some fairly steep banks going down to the water and I can't see this buffer zone as being very effective. I've got three ponds that I am concerned about in my town that are heavily populated with small cottages. There are more and more year-round homes as allowed by the existing ordinances and regulations. I'm a fire chief in Livermore. I have said that here before, but during the summer months I get to go and meet some of the neighbors in the cottages that already feel they are crowded now when they start complaining about the smoke from the campfire and I've got to go deal with that. I can't see increasing these little cottages that are lined up along the lake as much as they have proposed. We don't have the control. This is a permissive bill that our town can adopt it if they want to, but there is no control over if I'm on a river or a pond that the municipal boundaries may run through that water body. We don't have the controls of the other pond. An example, and we have talked about it before, is Torsey Pond, half of it's in Readfield and half of it is in Mount Vernon. You might have one ordinance on one half of the pond and another on the other side. You may have your lake association making efforts to keep these algae blooms and the phosphorus run-off in check while the other half of the lake may do their own thing. I'm not going to drag this on at this point, I'll let somebody else do it. Thank you.

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

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

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

Representative LAFOUNTAIN: Thank you. This is a question for anyone who serves on the committee. My understanding is that this bill went before the committee in January of this year. What was the extent of dialogue relative to shoreland zoning at the public hearing itself?

The SPEAKER PRO TEM: The Representative from Biddeford, Representative LaFountain has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bowdoinham, Representative Shiah.

Representative SHIAH: Mr. Speaker, Men and Women of the House: In response to the question, if you look at L.D. 1672 you will see, especially in the Statement of Fact, there are about 12 categories. Those are the issues that were covered at the public hearing. Shoreland zoning was not among those issues covered at the public hearing. Thank you.

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

Representative DEXTER: Mr. Speaker, Men and Women of the House: I'm sorry I didn't hear that question, but I understand where they are coming from. Believe me that was thoroughly discussed. We reconsidered it three times. This little conversation reminds me back when I was running a woods crew. I had two men

and I gave them a strip to cut on. I thought they were friends and they could handle it all right. Each one thought that the other one was getting a better chance so they started arguing. It got so bad that one person questioned the other person's ancestry and that person responded by accusing him of paternity issues and some of his nocturnal activities. That gentleman responded by saying, "Let's not go twitting on facts." Okay, I'm going to give you a few facts. I'm going to take a chance. Algae blooms, there is nothing, absolutely nothing in this Majority Report that is going to increase algae blooms. Copper sulfates, all it says is make sure that it will not adversely impact the fishery. Now, in a nonconforming lot right now you can expand 30 percent without even getting a permit. You can have a 55-gallon drum for your septic system. Under this bill, if you should expand you must upgrade your septic system. I can't see where that is hurting the water quality. It is true that this was a major change in the omnibus bill, and it's true that maybe it wasn't advertised in the public hearing per se. That's not the first time that has happened in the 18 years that I have been here. I have seen things ran through here in one day by certain people in the past and I admired how they did it. If you want to question the germaneness that's fine with me, but let's stick to the facts. That's all I'm asking. We can twit on them some more, and don't accuse me of my paternity please with my 32 grandchildren.

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

Representative MERES: Mr. Speaker, Men and Women of the House: I am on the Majority Report of this bill, but I'm here to tell you that I have reconsidered and I am going to support the Minority Report. I want to tell you that we had discussed this bill many times over and over again, and we have tried our best as a committee to come to resolution, to bring together the good things in the bill which would deal with the septic systems and allowing expansions for smaller camps on large lots, and the remediation, along with some of the things that deal with the impact on the shoreland and deal with municipalities and their ability to cope with this. The reason I have decided to support the Minority Report is that in all honesty I find it overwhelmingly confusing and I find that the impact on water quality is still the issue. Honestly, I don't feel that we have resolved anything with the Minority Report. Thank you.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House: If you notice I'm on the Majority Report also. I talked earlier yesterday and today with members of the committee and told them that I had every intention of changing my vote also, but not for the same reasons. I do agree with the majority that I think this is an environmental plus for the reasons that Representative Dexter mentioned. It would put a buffer zone of 25 feet between the lake and the expansion. It would require them to upgrade their septic systems which I think would be a great improvement. I'm also a very strong property rights person. If you remember the takings bill, I stood on the floor and debated quite a bit on that, but that is not my problem. I went to my home

after this vote was taken and I agonized over it because as a freshman legislator when I first came up here I had a bill in that was going to repeal a very silly and costly regulation on the restaurant industry. When I did the research on that bill and went before the committee for a public hearing, I found out that this regulation, and also an increase in their license quite a bit beyond what it was the year before, had no public hearing. Nobody from the restaurant industry had a chance to come up and have their say. As a new legislator and as a citizen, I wasn't a private citizen at the time I was a new legislator, that process outraged me and I realize now, after being up here and going through the process and seeing how some things come in, that that is part of the process and I don't denigrate anybody for doing that. But I still haven't got over that sense of discomfort and I don't want to lower that sense of discomfort and for that reason and that reason only, I will be voting with the Minority Report. 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: Procedurally I just believe that we need to separate the two. What I am hearing in the debate is that everyone is concerned about the Committee Amendment and not with the bill itself. Is that what I am perceiving to be the issue? It would seem to me that we would adopt the Majority Report right now and then kill the Committee Amendment. That solves the problem, because I can't support the Committee Amendment either, probably because my home town is one of those mentioned on that sheet and since I happen to be the treasurer of the Eagle Lake Water and Sewer District I would be in great shape going back home and finding that the rest of the members of the district had voted to oppose this amendment and I'm down here and end up voting for it. So, I would really suggest that we proceed to deal with acceptance of the Majority Report, let that be read, and then read the Committee Amendment and let's deal with the Committee Amendment because that's what everyone is now talking about. If that makes any sense, Mr. Speaker, I would suggest that we do it. Thank you.

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

Representative ETNIER: Mr. Speaker, Ladies and Gentlemen of the House: Representative Martin has raised several interesting questions to which I cannot respond so I will proceed with my original intent and will have to resolve the Committee Amendment, Majority Report, Minority Report issue as you see fit. I rise in opposition to the Majority Report as I understand it largely in concurrence with Representative Waterhouse. My district is nothing but shoreline. It is nothing but peninsulas. It is nothing but islands. This amendment that came forward at the very last minute had no public hearing, had no public notice, none of my constituents were notified. I was able, the night before I heard this amendment was going to appear, to get a call in to my code enforcement officer and fax him the language. He faxed me back a response which was distributed to the committee the next morning when this amendment was put forth and the code enforcement officer of the town of Harpswell indicated at that time that he was opposed to that amendment. That was the only chance I had to speak

to anyone in my towns. I have since received approximately ten phone calls, not just from the town of Harpswell, but from Georgetown and Phippsburg as well, saying oppose this shoreland zoning change. I'm not going to get into the merits of these various drawings with the roof schemes and cottages, that's not what I am here to debate. I am just here to debate the inappropriateness of this being considered in the omnibus bill. It's a very important matter to the folks in my district, a very important matter. They would love to have a chance to comment on it in a reasonable fashion and for that reason I urge you to oppose the Majority "Ought to Pass" Report. Again, please excuse my confusion based on Representative Martin's comments, but please do nothing to support changes to the shoreland zoning at this point in time. Thank you.

Representative NADEAU of Saco moved that the Bill be substituted for the Report.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: That doesn't solve the problem either. After reviewing Committee Amendment "A" and Committee Amendment "B" and where we are, if you want to keep what everyone seems to be wanting to keep out of the bill, in fact what you do is you kill the Majority Report and you adopt the Minority Report. That will solve it. Since the motion has been allowed in on substituting the bill for the report that is worse because it doesn't have the corrective language that needs to be amended in either fashion. So I guess, number one, I would urge you to vote against substituting the bill for the report and then voting against adoption of the Majority Report and then adopting the Minority Report.

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

Representative MARSHALL: Mr. Speaker, Colleagues of the House: What we are doing if we kill this amendment, basically if you have a large piece of waterfront and a little teeny camp and I know on the lake that my family is fortunate enough to have a camp on there is a lot of little teeny camps. Some of them may be twelve by twenty four or twenty six, but anyway, if you have a little teeny camp on a large lot you can add 30 percent to it once, forever. That's all. If, however, you have a little teeny lot and a large camp, you can add 30 percent to that once and forever. So, if you have a huge camp you're benefiting if you were either financially encumbered or decided you wanted to build as small a camp as you could, you're the one being troubled by this because you can only add 30 percent once and forever. The Minority Report perhaps helps it a little bit but still if you have a little camp on a large lot, and I'm talking even a 1200-foot piece of frontage, if that frontage was divided up into minimum lots way back when it was legal, say 100-foot lots, and there were 12 lots there instead of the one, and you had a large cabin on each one of those lots it would be legal right now to put a 30-percent addition on each of those. But, if you were foolish enough to say you wanted to be responsible and have a large piece of lot with one small building you would only be able to add 30 percent to it. The formula in the majority or in the amendment that we are discussing would allow you to add a certain amount of square feet for every foot of shore front that you have up to a maximum. I believe the maximum is 1250

square feet. We have had pictures given to us from MMA. We have a picture on our desk right now on an orange sheet and this sheet is a little more of a better perspective of what the actuality is, but before you think it is a great big monstrosity think about 1250-square feet as the size of a building. If you have a 26-foot wide ranch house that is 48 feet long, that's a huge building, a starter house, maybe two bedrooms. It's a little teeny house. That's the maximum. It's not the huge thing that looks like a factory that we had in the past. That's all we are doing. On top of that if you put an addition on you are going to have to get rid of your oil barrel sewerage system and put an engineered sewerage system in and you are going to have to put a buffer strip in, or somehow treat the run-off from your roof. That may be that you have to put an infiltration system in. Bottom line, I think in the long run, on a net basis, this amendment will actually improve the condition on the lakes simply because of having to infiltrate or treat your run off from the roof and you are going to have to upgrade your septic system, which in many cases around the state on some of the lakes that we've got admittedly are atrocious. They are nonexistent. In some cases they may not even have a 55-gallon drum. Think about the total net effect. We are always talking that we have to compromise, I think this is a good compromise. This is a net benefit to the state. 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: It seems we are doomed to debate this whether we need to or not. I do urge you to vote no on the pending motion. I usually restrict myself to commenting on utility matters, however, having spent 30 years as a water utility manager protecting water sheds for public water supplies I thought my comments might be of value. Expansion of shore-front property is usually warranted but should be closely controlled. Many times the expansion is merely to add a bedroom or similar. Often, however, expansion is to winterize a piece of property to allow for year-round use. The impact of this on the water body can be tremendous. Year-round use implies the addition of dishwashers, showers, clothes washing machines, garbage disposals and so forth. This adds considerable phosphorus to a lake or a pond. Phosphorus is the limiting factor in the growth of algae in a lake. Algae leads to rapid deterioration of water quality not only for public water supplies but for all uses of the lake and pond. Many species of fish will not thrive or exist in an algae laden lake and swimming is less than desirable. A degraded lake also affects property values and the salability of the property. While owners of property around parts of Sebago often complain about the Portland Water District's restrictions, in their saner moments they will agree that Sebago, after years of heavy use for all purposes, is still of excellent quality for use of everyone. I would point out that the expansion is restricted only if you are too close to the shoreline. If you have a long shorefront it is probably also a deep lot and you can expand to a certain percentage of your lot size. I urge you to reject the Majority Report and support the maintenance of today's standards and laws and pass the Minority Report. Thank you.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: There is a bit of confusion back here and I respectfully request leave of the House to withdraw my motion and if that prevails I would urge you to reject the Majority Report. Thank you.

The same Representative withdrew his motion that the Bill be substituted for the Report.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: I will try to be very quick. I'm going to ask you to turn down the Majority Report and move on and accept the Minority Report. The issue of expansion of structures on the shorefront area is something that I have been very sensitive to since I was about 14 years old. That was when the house that I was growing up in was flooded out. The reason it was flooded out is because it was on a small brook and summers, as a teenage boy, you could literally bound across this brook, it was that narrow. We were in the lower part of the tributary, just off the flood plain I guess, and the years after my parents moved there more and more development upstream started taking place. They filled in the wetlands surrounding a lake which fed this brook. They encroached on the shorefront of the lake. They put parking lots up and roofs on sheds and eventually the coup de grace was that the floodplain was literally filled in on the opposite side of where my parents lived, filled in so that they could have a nice level area for the people's yards. Over the years with this development one of the things we saw was that every time the brook flooded, and it flooded quite often, is it came up a little closer to the house. There were two reasons this was happening, one of which is the peak run-off from the stream was going through an acceleration. Rather than running after a downpour, the water coming off the land slowly and deliberately, it was rushing off the land, off the parking lots and rooftops into the lake and into the stream, almost like a cannon it would come down into the stream. One year, in 1969, I will never forget this because it was the day after my sister's wedding, I was alone at home and a typical, perhaps a little more intense than normal, thunderstorm came through this area, a heavy burst of rain in a short period of time, and I was alone and watched the brook come up further and further and further and for the first time ever it entered the back door, an unusual sight. It kept coming, up the stairs to the next floor of the house. Downstairs chairs were floating around and the piano that my grandfather had left us was ruined. Also ruined, quite to my dismay, was my baseball card collection. I dare say some of those cards could put my kids through college today. The point was that we didn't respect the stream and the lake and understand that the land needs, like a sponge, to absorb rain water, absorb run-off and not send it suddenly through this water course. Because the floodplain had been encroached upon, the river when it was flooded went up on each side, now it only went up on one side, unfortunately it happened to be the side my parents were living on. So, I saw first hand, I guess it was an early education, and it sensitized me to the fact that we really need to respect the building in wetland areas, the building along shorefronts. A lot can be said about people's property rights, but I am going to say the exercise of some people's rights stole the rights from other people and their houses

were flooded out and eventually the state had to come along and spend more than 2 million dollars building a spillway bypass for during periods of high floods. So, the exercise of some people's rights to expand and expand cost the taxpayers 2 million dollars, cost many of us our homes and I think in the end hurt more people's rights. I'm going to ask you to vote against the current motion and move on to accept the Minority Report. Thank you.

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

Representative DEXTER: Mr. Speaker, Men and Women of the House: With all due respect to the previous speaker, what he said has nothing to do with what is happening here. I have been around these halls for 18 years. I know how you can kill a bill. The first thing you do is confuse the issue. I have used that system myself and it works. I have no illusions as to how this is going to go. I don't get up and speak too often. I know I got a frown from the Speaker, but he and I have worked together a good many years and we are good friends and the frown is gone and the smile is there. So let's vote on this. Let's make me the last speaker and go ahead. Thank you.

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

ROLL CALL NO. 340

YEA - Aikman, Ault, Birney, Clukey, Cross, Damren, Dexter, Gould, Greenlaw, Jones, S.; Joy, Lane, Look, Lumbr, Marshall, McAlevey, McElroy, Murphy, Poulin, Reed, W.; Robichaud, Stedman, Tufts, Whitcomb, Winsor.

NAY - Adams, Ahearne, Barth, Benedikt, Berry, Bigl, Bouffard, Brennan, Buck, Bunker, Cameron, Carleton, Chase, Chick, Chizmar, Cloutier, Daggett, Davidson, Desmond, Dore, Driscoll, Etnier, Farnum, Fisher, Gamache, Gates, Gerry, Gieringer, Gooley, Green, Guerrette, Hartnett, Hatch, Heesch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Joyce, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Layton, Lemaire, Lemke, Lemont, Libby JD; Lindahl, Lovett, Luther, Madore, Martin, Marvin, Mayo, Meres, Mitchell EH; Nadeau, Nass, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Pouliot, Povich, Reed, G.; Rice, Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tuttle, Tyler, Underwood, Vigue, Volenik, Waterhouse, Watson, Wheeler, Winglass, Winn, The Speaker.

ABSENT - Bailey, Campbell, Carr, Chartrand, Clark, DiPietro, Donnelly, Dunn, Fitzpatrick, Joseph, Libby JL; Mitchell JE; Morrison, Nickerson, Spear, Truman.

Yes, 25; No, 110; Absent, 16; Excused, 0.

25 having voted in the affirmative and 110 voted in the negative, with 16 being absent, the Majority "Ought to Pass" as amended Report was not accepted.

On motion of Representative DEXTER of Kingfield, the Minority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "B" (H-858) 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-858) and sent up for concurrence.

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

The Speaker resumed the Chair.

The House was called to order by the Speaker.

On motion of Representative THOMPSON of Naples, the House adjourned at 5:05 p.m. until 9:00 a.m., Thursday, March 26, 1996.