

MAINE STATE LEGISLATURE

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

VOLUME VI

SECOND REGULAR SESSION

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

Senate
January 3, 1996 to March 13, 1996

ONE HUNDRED AND SEVENTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
35th Legislative Day
Saturday, March 30, 1996

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

Prayer by Father Gilbert Patenaude (retired).
Physician for the day, George E. Hutchins, D.O., Biddeford.

The Journal of yesterday was read and approved.

ORDERS

On motion of Representative SAXL of Portland, the following Joint Resolution: (H.P. 1381) (Cosponsored by Representative DAVIDSON of Brunswick and Representatives: ADAMS of Portland, AHEARNE of Madawaska, BERRY of Livermore, BRENNAN of Portland, BUNKER of Kossuth Township, CHASE of China, CLARK of Millinocket, CROSS of Dover-Foxcroft, DRISCOLL of Calais, ETNIER of Harpswell, FITZPATRICK of Durham, GREENLAW of Standish, JONES of Bar Harbor, JOSEPH of Waterville, KEANE of Old Town, KILKELLY of Wiscasset, KONTOS of Windham, LEMAIRE of Lewiston, LUTHER of Mexico, MERES of Norridgewock, MITCHELL of Portland, MORRISON of Bangor, O'NEAL of Limestone, POVICH of Ellsworth, REED of Dexter, RICHARD of Madison, RICHARDSON of Portland, ROWE of Portland, SAMSON of Jay, SAXL of Bangor, SHIAH of Bowdoinham, STEVENS of Orono, THOMPSON of Naples, TOWNSEND of Portland, TREAT of Gardiner, TUFTS of Stockton Springs, TYLER of Windham, VIGUE of Winslow, VOLENIK of Sedgwick, WATSON of Farmingdale, WINN of Glenburn, Senators: BUSTIN of Kennebec, CAREY of Kennebec, MICHAUD of Penobscot, PINGREE of Knox, RAND of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

**JOINT RESOLUTION MEMORIALIZING THE CONGRESS
OF THE UNITED STATES NOT TO CUT FUNDING
FOR HIGHER EDUCATION**

WHEREAS, President Nixon stated, "No qualified student who wants to go to college should be barred by lack of money. That has long been a great American goal."; and

WHEREAS, each subsequent President, including President Clinton, has reaffirmed this policy; and

WHEREAS, a dollar invested in the federal educational grant programs will return \$4.30 in additional tax revenue over a student's lifetime; and

WHEREAS, full-time college students work an average of 25 hours a week to support themselves; and

WHEREAS, college-aged youths from the highest income families are more than 3 times as likely to be enrolled in college as those from the lowest income families; and

WHEREAS, under current Congressional proposals, 212,000 college students will lose state grants and an additional 150,000 needy students will lose student loans; and

WHEREAS, Congress has proposed reducing student grants for college by eliminating Pell grants for 400,000 students; and

WHEREAS, Congress has proposed to penalize colleges and universities for serving needy students by instituting a tax on schools equal to 2% of loan volume; and

WHEREAS, educational programs that will receive no funding under the current congressional continuing resolution include: law-related education,

cooperative education, Douglas Teacher scholarships, innovative community service projects, drop-out prevention demonstrations, state vocational education councils and art programs; now, therefore, be it,

RESOLVED: That We, your Memorialists, respectfully recommend and urge the Congress of the United States to maintain aid for higher education; and be it further

RESOLVED: That duly authenticated copies of this Memorial be submitted by the Secretary of State to the Honorable William J. Clinton, President of the United States, the President of the Senate, the Majority Leader of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation.

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

Representative SAXL: Mr. Speaker, Men and Women of the House: Today I present a Joint Resolution supporting funding for higher education and asking Congress to maintain their funding for higher education. This Joint Resolution comes to me today by way of a constituent, a nontraditional student who, at the age of 35, has gone back to school to make her life a little bit better. Today I propose this Resolution at her request, because without access to low-interest loans, to PELL grants, and to other subsidies that the federal government has long supported, she will not be able to go to school. She will not be able to have access to education. I support this Resolution before you today because, not only is this a great way to help people make their own lives a little bit better, but it makes good economic sense. For every dollar in student aid, a graduate from college who received that aid returns \$4.30 extra to the economy. Asking Congress to maintain their aid to education is as simple as the American Dream and I thank you for joining me in supporting it today. Thank you.

Was read and adopted and sent up for concurrence.

On motion of Representative FITZPATRICK of Durham, the following Joint Resolution: (H.P. 1383) (Cosponsored by Representatives: BRENNAN of Portland, DORE of Auburn, ETNIER of Harpswell, JOHNSON of South Portland, JONES of Bar Harbor, VOLENIK of Sedgwick) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

**JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE
UNITED STATES TO AMEND THE FEDERAL FOOD, DRUG AND
COSMETIC ACT AND THE PUBLIC HEALTH SERVICE ACT TO
FACILITATE THE DEVELOPMENT AND APPROVAL OF
NEW DRUGS AND BIOLOGICS**

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

WHEREAS, improving patient access to quality health care is a paramount national goal; and

WHEREAS, the key to improved health care, especially for persons with serious unmet medical needs, is the rapid approval of safe and effective new drugs, biological products and medical devices; and

WHEREAS, minimizing the delay between discovery and eventual approval of a new drug, biological product or medical device derived from research

conducted by innovative pharmaceutical and biotechnology companies could improve the lives of millions of Americans; and

WHEREAS, current limitations on the dissemination of information about pharmaceutical products reduce the availability of information to physicians, other health care professionals and patients, and unfairly limit the right of free speech guaranteed by the First Amendment to the United States Constitution; and

WHEREAS, the current rules and practices governing the review of new drugs, biological products and medical devices by the United States Food and Drug Administration can delay approvals and are unnecessarily expensive; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge the Congress of the United States to address this important issue by enacting comprehensive legislation to facilitate the rapid review and approval of innovative drugs, biological products and medical devices, without compromising patient safety or product effectiveness; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation.

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

Representative FITZPATRICK: Mr. Speaker, Men and Women of the House: I ask you to support this Joint Resolution to the United States Food and Drug Administration to ask them to minimize the delay between the discovery and the eventual approval of new medications and biological products so we can get those products on the market and support our businesses and universities who do some of the most important research in the world and bring these products to the market in a timely fashion, so people can be treated, as they do in Europe and many other countries. Thank you.

Was read and adopted and sent up for concurrence.

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

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:

Expression of Legislative Sentiment recognizing the Bangor High School Boys Swimming and Diving Team (HLS 1058)

TABLED - March 27, 1996 by Representative SAXL of Bangor.

PENDING - Passage.

Subsequently, the Legislative Sentiment was passed and sent up for concurrence.

Expression of Legislative Sentiment recognizing the Bangor High School Girls Swimming and Diving Team (HLS 1059)

TABLED - March 27, 1996 by Representative SAXL of Bangor.

PENDING - Passage.

Subsequently, the Legislative Sentiment was passed and sent up for concurrence.

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)

TABLED - March 27, 1996 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Passage to be Enacted.

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

Expression of Legislative Sentiment recognizing John S. Martin (HLS 1082)

TABLED - March 29, 1996 (Till Later Today) by Representative CLARK of Millinocket.

PENDING - Passage.

Subsequently, the Legislative Sentiment was passed and sent up for concurrence.

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

SENATE DIVIDED REPORT - Majority (8) "**Ought to Pass**" as amended by Committee Amendment "A" (S-517) - Minority (5) "**Ought to Pass**" as amended by Committee Amendment "B" (S-518) - Committee on **Legal and Veterans Affairs** on Bill "An Act to Clarify Definitions Under the Laws Concerning Games of Chance" (EMERGENCY) (S.P. 479) (L.D. 1303)

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

TABLED - March 27, 1996 (Till Later Today) by Representative TRUE of Fryeburg.

PENDING - Motion of same Representative to accept the Majority "**Ought to Pass**" as amended by Committee Amendment "A" (S-517) Report.

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

Representative TRUE: Mr. Speaker, Men and Women of the House: I wish to speak just a few moments on this particular bill. I'm sure that you probably have read about it. However, this came to the Committee primarily because of a court case. As you know, court cases are sometimes difficult to ascertain just exactly how they got to one decision or another, but in this case it had to do with a video machine and the State Police were asking whether or not this machine had degrees of games of chance or games of skill. The important thing that this case did was that the court, in its deliberations and when they gave the report, indicated that maybe the Legislature should look into this matter and to have something that would certainly help us, and help the State Police, and help those people that perhaps have them illegally, to be on a firmer foundation. This particular L.D.

is in response to that court decision. It will help us harness, if that is a good word, the gray machines. Those machines which are, and have been, in the State for some time. This is my second term and I have been on the Legal and Veterans Affairs for both of those terms and this has come up quite often. I can remember the first time that I heard about the gray machines. It was explained to me that we had about 1,500 of these machines in the State. However, now it seems that this has proliferated to the point that we have approximately 6,000. Many of these, or most of these, are in this gray area and, certainly, the State does not get the monies for the collection from the monies that are played in the utilization of these machines, in these particular areas. The Majority Report of the Joint Standing Committee on Legal Affairs, this amendment amends the laws on gambling by amending the definition of the game of chance, contest of chance, and game of skill. In doing so it allows us to put into our funds, or the General Fund, depending on the number of machines naturally, and the widespread use of it, but a considerable amount of money. This is absolutely necessary to have passage of this particular bill, as it is written, if the State Police have any chance at all to take care of this situation, which has been going on for some time. I would ask for your support and the support of the majority Ought to Pass as Amended by Committee Amendment "A" (S-517). Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative KERR: Mr. Speaker, Men and Women of the House: The State Police has indicated to us that there are about 6,000 gray machines that are out there. Does, in fact, the passage of L.D. 1303 eliminate those 6,000 machines? Thank you.

The SPEAKER: The Representative from Old Orchard Beach, Representative Kerr has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Fryeburg, Representative True.

Representative TRUE: Mr. Speaker, Men and Women of the House: If I understand that correctly, it would eliminate those machines as being illegal.

The Chair ordered a division on the motion to accept the Majority "Ought to Pass" as amended by Committee Amendment "A" (S-517) Report.

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

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

The SPEAKER: The Representative may pose his question.

Representative HARTNETT: Mr. Speaker, Men and Women of the House: The other night, at one of the industry receptions we went to, the owner of a family entertainment center approached me and some other Representatives and was kind of excited about this bill and how it might impact his business. He runs one of these family entertainment centers with skee ball and the machines which issue tickets which you can redeem for prizes and things like that. Will this report, with the amendment, affect his business?

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

Representative BUCK: Mr. Speaker, Men and Women of the House: In answer to the Representative from Freeport, it's my understanding that the modification of this bill will have no effect on the concerns of your constituent. It will be interpreted the same way it has been for the last 20 years.

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

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

The SPEAKER: The Representative may pose his question.

Representative KERR: Mr. Speaker, Men and Women of the House: In reading this bill, L.D. 1303, I would like to ask the question whether or not people that are investing in futures markets, would they be limited or would they still be able to invest in futures markets based under the new definition of games of skill and chance?

The SPEAKER: The Representative from Old Orchard Beach, Representative Kerr has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Houlton, Representative Clukey.

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House: I can't impress upon you enough the need to pass this bill. Due to this court ruling that apparently said that a particular game that had been coming in from a distributor out of state had an element of skill in it and therefore didn't come under the game of chance laws. When he made the ruling he did it just on the basis of the wording of the law. The State Police in the past few years have been making determinations. They have to decide, when somebody wants to put a machine like this in the State, as to whether or not it is a game of chance. It comes under their regulations. This kind of turns around everything they have been using for years. The judge himself said, when he made the ruling, I am told, that it would be unconscionable for these machines to be spread out through the state and he suggested that there was a need to come back to the Legislature and clarify the wording and what this does. If we don't pass this bill these machines will proliferate. Anybody can use them, ten year olds, there will be no control over them at all. I can't impress upon you enough the need to pass this Majority Report. Thank you.

On motion of Representative JACQUES of Waterville, tabled pending acceptance of the Majority "Ought to Pass" as amended by Committee Amendment "A" (S-517) Report and later today assigned.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph who wishes to speak on the Record.

Representative JOSEPH: Mr. Speaker, Honorable Men and Women of the House: Today, at this hour, March 30, 1996, Edmund S. Muskie will be laid to rest in Arlington National Cemetery with the heroes of the world and the United States. Ed Muskie was a friend and a sort of relative. Ed Muskie was a State Representative. Two years ago, in this body, he

stated, "Those were some of the best years of my life." He was the Governor of the great State of Maine. Can you envision the five Muskie children roaming the Blaine House, the birthday parties, the Christmases and the Thanksgivings? Ed Muskie was a U.S. Senator, responsible for much good public policy. The best being his responsibility for clean air and water in Maine and throughout the United States. Ed Muskie was a Secretary of State to President Jimmy Carter. Ed Muskie was a wonderful husband to Jane and good father to their five children. I am privileged to serve Waterville in this body as a State Representative. I am also honored to be Mayor of that fine City of Waterville. Waterville holds Senator Muskie in high esteem, respect and love. His Lincolnnesque stature made him recognizable from afar. He and his lovely wife, Jane Gray Muskie, and their children were always welcomed back to Waterville. Jane is a Waterville native and referred to as "Baby Sister" in the Gray family. Their marriage of 47 years was unique, happy and loving. In essence, Ed Muskie will always be an adopted son of Waterville. He spent his early adult years as a lawyer in Waterville, raising his family, and became an activist in democratic politics. He also became the Father of the Democratic Party in Maine. He was responsible for breathing new life into local and statewide political structure. Ed Muskie always smiled when he recalled, "I could not even get elected Mayor of the City of Waterville in the 50s." But Ed went on to greater things, becoming a mentor to those of us who aspired to public service and serve the people of Maine. Always, at Ed's side was his friend and campaign manager, the uncle of our Speaker of the House, Dan Gwadosky, Dick McMann. Ed Muskie and Dick inspired all of us and attracted many of us to the political process and public service. The Muskie mystique was infectious. Our waters and air are cleaner because of Ed Muskie's leadership. Our lives are richer knowing him. Our smiles are brighter as we listen to his endless speeches and speeches that had no end. The walls of the Blaine House must smile at night as they remember the joyous sound of the Muskie/Gray family. Our hearts are heavy as we realize, once again, that we have lost one of Maine's best and brightest, one whose name is synonymous with Maine, Senator Muskie from Maine.

We thank you Ed, we thank you Jane, we thank you all the children of Ed and Jane, for your service and contributions to our State of Maine, the City of Waterville and to the United States. Our thanks and remembrance to a gentle giant of a man, always a gentleman, one of Maine's greatest of the twentieth century, Edmund S. Muskie. We have loved you. We will miss you. We ask you to watch over us always. May God bless you and keep you. Thank you.

SENATE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (S-517) - Minority (5) "Ought to Pass" as amended by Committee Amendment "B" (S-518) - Committee on Legal and Veterans Affairs on Bill "An Act to Clarify Definitions Under the Laws Concerning Games of Chance" (EMERGENCY) (S.P. 479) (L.D. 1303) which was tabled by Representative JACQUES of Waterville, pending the Majority "Ought to Pass" as amended by Committee Amendment "A" (S-517).

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

A vote of the House was taken. 106 voted in favor of the same and 0 against, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-517) was read by the Clerk.

Representative VIGUE of Winslow presented House Amendment "A" (H-890) to Committee Amendment "A" (S-517) which was read by the Clerk.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: The amendment we are dealing with, (H-890), will allow our Maine Indian Tribes to expand the beans that they conduct, the high stakes beano, from the present 27 week allowance to 52 weeks per year. The fee will be proportionate. They are presently paying \$50,000 to operate 27 weeks, then the fee will go to \$100,000 for the 52 week increase. The increase will allow the Indian nations to expand their employment of their people from 27 weeks to 52 weeks. Ladies and Gentlemen of the House, I ask you to please consider this request and give our Indian brethren a little help in providing for their people. Thank you.

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

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House: I request that the Chair rule on the germaneness of this amendment.

The SPEAKER: In response to the request for germaneness by the Representative from Houlton, Representative Clukey, with regards to House Amendment "A" to Committee Amendment "A", the tests for germaneness deal with the reference of title and content, as well as the statutes it involves. In this instance Committee Amendment "A" has replaced the bill. The bill primarily deals with Title 17, as does the proposed House Amendment to the Committee Amendment. The Chair would rule that the House Amendment is not a substantive change, based on precedent rulings in the context of, once again, the title and the content, as well as the statutes affected. The Chair would rule that House Amendment "A" is properly before the body. The Chair recognizes the Representative from Houlton, Representative Clukey.

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will join me in opposing and voting "Ought Not to Pass" on this amendment. I feel as though to make a change like this, going from 27 weekends to 52 weekends a year for the operation of high stakes beano on the Indian reservations should have had a public hearing. To bring something like this in on this particular bill, at this late date, I feel should not have been done. Thank you.

The SPEAKER: The Chair recognizes the Representative from the Penobscot Nation, Representative Biscula.

Representative BISCUCLA: Mr. Speaker, Men and Women of the House: I simply urge you to support this amendment. It does, regardless of how you may feel about games of chance or beano or anything of that sort, it, nevertheless, does contribute significantly to the economic well-being of the tribes.

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

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House: I serve on the Legal and

Veterans Affairs Committee and it concerns me a bit that this amendment is before us at this time when the folks who are presenting it had ample time to come before our Committee when these various gambling bills that we are considering were on the table. We have not had an opportunity to have a public hearing on it so that we can understand the ramifications of, in effect, doubling the amount of time that this sort of activity takes place. So, for that reason, I would urge you all to not support the pending motion. Thank you.

The Chair ordered a division on adoption of House Amendment "A" (H-890) to Committee Amendment "A" (S-517).

On motion of Representative CARLETON of Wells, tabled pending adoption of House Amendment "A" (H-890) to Committee Amendment "A" (S-517) and later today assigned.

HOUSE DIVIDED REPORT - Majority (7) "Ought to Pass" as amended by Committee Amendment "A" (H-887) - Minority (5) "Ought Not to Pass" - Committee on Judiciary on Bill "An Act to Prohibit the Photographing or Videotaping of Jury Deliberations" (EMERGENCY) (H.P. 1360) (L.D. 1868)

TABLED - March 29, 1996 (Till Later Today) by Representative TREAT of Gardiner.

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

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

Representative TREAT: Mr. Speaker, Men and Women of the House: The issue before us is whether the Maine Supreme Court is to be allowed to carry out its administrative order issued on February 5, 1996. This was an order allowing a documentary television production to be filmed in the Cumberland County Courthouse. The question this bill presents is whether for this project only a jury may be filmed during its deliberations. Five of the seven Justices of the Maine Supreme Court have decided to allow the project. They intend to have this project directly supervised by the Chief Justice of the Superior Court, Justice Bradford. The project may be terminated at any time by the Chief Justice of the Superior Court. Some facts about the project, all participation in the project will be voluntary. Secondly, this is not an experiment to determine if future filming of court and jury deliberations is a good idea. We have already had an experiment in the Maine system of courts, and the Maine Supreme Court has decided that they do not wish to have ongoing filming of the courts in general. So, this is not a pilot project to determine whether or not to do this in the future. It is a project to do one documentary.

The Maine Supreme Court is a conservative body when it comes to cameras in the courtroom. I personally cannot imagine that they will allow anything that would interfere with the jury process or with the administration of justice. The project that is planned will film civil juries, not criminal juries. As you know, unlike in a criminal case, a civil jury is not required to come to a unanimous verdict. I think that that is important with the concerns of those in the majority, in terms of influencing the jury deliberation process. The raw footage of this documentary, which in its final form will be broadcast nationally on CBS TV, is to be available in the State of Maine. Hopefully at the

Law Library and in other locations where it can be used by law students, professors, the general public and others for research purposes. The cameras used in this project will not be obtrusive, hand-held cameras where people are walking around the room, as they do here, but unobtrusive cameras that will not be noticeable to the participants of the documentary. There have been other documentaries done by CBS on, for example, heart transplants and other things that show very serious subjects, where the participants were not affected in any way by being filmed.

The Majority Report, which would ban this project from going forward, arises out of, I believe, well-meaning and by no means frivolous concerns about ensuring the seriousness and objectivity of the jury deliberation process and of the court system. Those on the Minority Report share in these concerns. I think where we differ is whether we trust the Justices of the Maine Supreme Court to manage this project in a fair way and in an appropriate way. Speaking on behalf of those on the Minority Report, I do trust the Courts to use good sense and good judgment here. It is within their authority to do so and I, personally, would like to respect that authority. I'm not saying there are constitutional issues that prevent us from overseeing what they do, but I have a certain amount of faith that they can do a good job here, and I believe that it would be better to respect their authority in this project. Let's allow this project to go forward. Personally, I would like to allow the rest of the country to see how Maine justice is administered, why our Courts and the Justices here are seen for their common sense, for their straightforward, efficient way that they administer justice and do business. I think we have a justice system that we can be proud of and I am in favor of showing the rest of the country what it's all about. I ask your support of the pending motion. Thank you.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: Just briefly, because I think a lot of us have already made up our minds on a bill like this, I don't think that this is the kind of thing, allowing cameras in the jury room, that the Maine citizens really want. So, Maine citizens came to me, as a legislator, and said, "I just can't believe this decision. Not only can't I believe this decision that would allow cameras to go into the jury room, but I can't believe some of the recent decisions in the past, for example, putting a convicted drug smuggler, an international drug smuggler, in a clerkship." That was a mistake that here in the State Legislature we all took a look at and said, "Hey, that's just not right." It was just a question of right and wrong and we passed a law that said convicted criminals cannot serve as lawyers in the State of Maine. I thought that was a very good law that we passed. People have talked in Committee about Moody Beach, for example, and some of the things that happened there. Not to go on too long, I just want to read a couple of things that I think you will find of interest. In Maine's administrative order, allowing cameras in the courtroom, this is cameras in the courtroom back in the 80s, they did some documentation of evidence following that experiment and here are some of the comments by people that were involved. First, "The media

shouldn't have been involved because innocent people were affected by this." Another comment was, "I think this was an unprofessional decision to broadcast a witness' emotions." Another was, "There have been countless times when both my wife and I have been recognized in public places. This includes being verbally insulted in restaurants and department stores. At times I felt my wife's safety and well-being were threatened." There are a lot of reasons, beyond this, I think to think about just not allowing cameras in the courtroom and voting against this minority opinion so we can go on to accept the Majority Report. But, particularly I think the best were comments made by two of our Supreme Court Justices, Justices Glassman, hold on just a minute so I can get the other name, and Rudman, thank you, who said that, "We cannot replicate a jury deliberation that has been invaded by any aspect, whether it be cameras or if someone were in the jury room watching the debate. We must have free-flowing debate within that jury room and to have anything invade the sanctity of the process is great cause for concern." I noticed in today's paper, in a piece that was sent to all of your desks by Representative Nass, a lawyer from Portland, named Mrs. Miner, said that juries can't help but be affected by cameras, even subconsciously. Some may be more inhibited and some may grandstand. I think that's important and it all plays a role.

I would like to just finish by offering a metaphor. That is we should take a look at our judicial system as something that was set up by the founding fathers, something that is sacred, something that is actually a resource here in Maine. We wouldn't damage our resources in order to learn more. It would be like dumping a lot of chemicals in a river because we say we can clean it up and we can learn a lot more about clean up efforts by doing that. You just wouldn't do it. So, it's a gut issue and I hope that you will agree with me on this and vote against the Minority Ought Not to Pass so that we can go on to pass the Majority Report. Thank you.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: I'm going to make a brief speech, believe it or not, but I have to give you a little background. In 1791, as you know, the Bill of Rights was ratified and became part of the Constitution. At that time the Bill of Rights applied directly to the federal government. There was concern that the government might overstep itself and these rights should be incorporated. During the twentieth century, as a result of a number of precedents and court decisions, the Bill of Rights was also extended to all of the states. In other words, to the states as well as to the federal government. So, what you have here folks is a potential, a potential for a first amendment issue. Let me be as straightforward in plain English as possible on this. Our law is built upon precedent. Our law has been built upon precedent going way back in history to England during our colonial times and throughout our national history. To my knowledge in all those hundreds, yes thousands of years there is no precedent, nor is there any intent, that the freedom of the press in relation to the sanctity of the jury should be extended into the jury room. Okay? You can look at the debates. You can look at the actual actions taken. This was never envisioned. So, if anybody in

here cares about constitutional intent I would like anyone to explain why, over all this period of time, you can't find any intent to do this type of thing? I understand it is presented to you that this is a civil case. It's not criminal. It's a small issue. It's innocuous. Ladies and Gentlemen, there are a lot of what were thought at the time to be small decisions that became the basis, over time, for very important precedents. My question to you today is, why would you take even a small step unless there is compelling evidence that you have to take that step? Until I hear that evidence I certainly urge you to vote against the Minority "Ought Not to Pass" Report. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative KEANE: I was wondering, is the video taping publicly accessible under the Freedom of Information Act?

The SPEAKER: The Representative from Old Town, Representative Keane has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: To respond to the question, all the raw footage will be put on file as basically a state documentary information. It will be in a library that is accessible to the public.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: I want to make a couple of brief remarks. The previous speaker discussed the sanctity of the jury room and the importance of the privacy of that environment, which is indeed important on a regular basis. The jury system has come a long way since the time that our founding fathers were debating the sanctity of the jury system in Philadelphia in 1787. A trial was happening in New Jersey, about 80 miles away, and in one afternoon the jury, acting in public, sentenced nine people to death in seven different trials on one Saturday afternoon at a fair. Two weeks later all nine were hung. The reason it ended up in the newspaper is that a reprieve that was sent to the Governor for one of the defendants, charged with counterfeiting, missed getting there by an hour. The newspaper thought that was news worthy that the person was hung, not that the jury deliberations were held in public with a fair going on around them, and which all sorts of opinions were being expressed and quoted in the newspapers. That is the time of which we were talking about the sanctity of the jury decision in a closed session of the Constitutional Convention in Philadelphia, a bare 80 miles away.

Ladies and Gentlemen, the jury system is a human institution. It has had a long, interesting, and diverse history. The reality is, from where I sit, is that the jury system needs examination, not only by experts, not only by the legal fraternity and sorority, but by the public through journalistic enterprise and by examination so that folks can begin to take a close look at this human institution. I, for instance, find it absolutely absurd that many

judges, not much in Maine I should add, prohibit note taking by jurors. To me that is inconceivable. I find it perfectly absurd that much of our jury selection process is to skew it in certain ways, not much in Maine, and in some states jury consultants are gaining a major professional hold as they enable trial lawyers to affect the so-called randomness that is supposed to be there, juries of the peers of the neighborhood.

Ladies and gentlemen, this is an institution that needs examination. We perhaps can allow, and should allow, the robes and the sanctity of it all to go ahead, but as it takes its bow I think we should turn a bit of a hose of cold water on this institution, perhaps from the rear, and turn the stone of this over, let some sun show on it. I think that the court has gone a long way in examining how they are going to do this, so that all of us can begin to think about what the jury system means in the modern age, and how it might be improved. I think the judges have done a marvelous job in thinking this out. I am glad that regular networks are interested in examining it. I think it's an important contribution to public policy and at such time in the future, if it becomes an entertainment or video game, in a sense, then there is ample time to pass bills restricting that. I actually, somewhat facetiously, suggested that we change the title of this bill to Banning Video Taping in the Courtroom, rather than the jury room because I think what we just went through with the Simpson trial was an obscenity, but, in any case, I think that under proper auspices, human institutions, like the jury system, should be examined in the arena of public light. They need that sunlight on the underside of the rock. I would urge us to proceed to kill this bill. Thank you.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: I believe this is a good bill. I hope you will agree with me and vote against the pending Minority "Ought Not to Pass." Thank you.

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

Representative NASS: Mr. Speaker, Men and Women of the House: Even if you believe the previous speaker from Portland, the good Representative Richardson, I would ask you to look at the details of what is proposed in this CBS effort. If you look at the details, it suggests that the jury pool will be asked, essentially a question, as to whether they want to participate in this event. If they don't want to participate they will be able to leave the process completely. I would suggest that an adverse selection, those people who are adverse to performing in front of a camera will exit. Those people who might like the opportunity to perform will be allowed to continue. The next step, essentially, as suggested before is that the trial will be partly taped. There will be two ongoing efforts. One that is already underway in the State of Arizona, a criminal trial, and the next proposed for a civil trial in the State of Maine. This is to commence sometime in May. During that process the tape from the trial and from the jury, nobody knows how long that will be, will be condensed into about an hour's effort. That will be shown sometime in the fall on national TV.

Even if you agree that the jury deliberation process needs to be subjected to some research

effort, I would suggest that what's going to happen here is pure entertainment. Who can believe that CBS, who has to obtain sponsors for this effort, and may run this thing opposite Seinfeld some night in the fall, is essentially going to result in anything that is positive or in the research nature for the jury process. I cannot at all conceive that this is going to be good for the jury system in Maine, that it has anything other than entertainment value, and that the process we are asked to accept here, that the process that the Justices of the Supreme Court have approved, is going to be beneficial. Again, I would also ask you to vote against the Minority "Ought to Pass" Report. Thank you.

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

Representative JONES: Mr. Speaker, Men and Women of the House: I often don't agree with the Supreme Court decisions and the law court decisions in this State. They are often decided on four-three or five-two votes. This is a five-two vote. I notice that you had the dissent passed out because the opinion was with five Justices of this very conservative court. They are the final arbiters of the Constitution in this State, I'm not. I have had training in the law, but a limited training compared to these Supreme Court Justices. They are the final arbiters. To me it's like being called out at first base and refusing to leave. You leave. Speaking of dissent, Justice Douglas wrote in a dissent once that if corporations had standing in court to sue then so should trees to protect their environment. I haven't seen any bills introduced that allow trees to have standing in court. It's the Supreme Court, five votes. Go with the majority. Thank you.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: While this is being viewed as an opportunity and a tool for education and the review of the jury system, please keep in mind that the jury will differ in every single jury that is picked. You will see one jury performing one way. No other jury will ever perform that way again because you will not have the same makeup, the same facts, the same situation. If you are looking for a way to reform the way a passive jury is picked, and believe me, they are passive until they enter that jury room, if they are manipulated before that by being looked at by professionals who say, "You need this jury" or, "You need that jury." They don't have any say in that whatsoever. If that kind of modifications need to be made then you do not have to go into the jury room to see that, you absolutely don't. The fact that every juror will know that the camera is on them is an important fact, and every juror has to agree to it. We do not have a way to excuse jurors for not agreeing. Jurors may only be excused because they are disabled, or are not able to serve. We don't have a clause in our statutes that says, "By the way, if you don't want to be videotaped we can excuse you." If you can't see the sensationalism that will come out of this, I think that if that fair in the 1700s had been done today, with modern technology, that would have been broadcast everywhere. Eighty miles in the 1700s was an incredible amount of distance. Today that would have been sensationalized at a fair, and especially the hangings. The raw footage will be censored, not censored, I'm sorry, I don't mean that word, the raw footage will be taken

and clipped so that the highlights will be shown. The highlights that CBS decides will fit their storyline. So, what we will see in the documentary will not be the raw footage and the whole deliberations and the whole trial, it will be selected highlights, subjective selected highlights. I can only imagine the ads that will be sold during that trial. Perhaps you have heard this line, "We don't get money till you get money." Please vote against the pending motion. Thank you.

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

Representative FARNUM: Mr. Speaker, Men and Women of the House: I do not know how many people in here sit on jury duties. I have. I would not want to be videotaped, nor would the jury I served with want to be videotaped in making decisions. It opens you up to liberal pursuits. Thank you.

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

Representative THOMPSON: Mr. Speaker, Men and Women of the House: This is kind of a difficult issue for me to stand up and speak on because I have very mixed feelings on some of the aspects of this, but I am standing up to oppose the present motion, and I think it's appropriate that we speak out on this issue. This is not a legal issue, as a decision of the Supreme Court, it's a public policy issue. Therefore, I think it is very appropriate that the Legislature make their wishes known. I agree with many of the things that the good Representative from Portland, Representative Richardson, said about access to the court system. I also agree with some of the other arguments that were made in the opposition, but, I would like to give you, first, a little background of this situation. What they are going to be doing is going to all of the trials that are on the May trial list, and right now there are 17 trials available. They are going to try to get the consent of the lawyers and the clients to film their trials. Then they are going to film all of the trials that they can during that month. Justice Cole, at the work session, indicated that they would be lucky to get four or six trials. What is going to happen then is they are going to film all of those trials in their entirety, and all of the deliberations on all of those trials in their entirety, and then choose one of those cases and later use that as the basis of their documentary. So, they are not just filming one trial. They are filming a number of trials and then choosing from those. Despite the negative feelings that have arisen from the televising of the O.J. Simpson trial, and some of the more glamorous trials that have happened, I really believe that it is important that cameras enter the courtroom to show people what really happens in the courtroom. I would love to see cameras there on a day when they are choosing trials, on the day when the so-called plea negotiations and plea agreements are being made, because I would like you to appreciate that judges and district attorneys and lawyers are not faced with easy tasks on these days. You would not only see the problems with the system, but you would see the good things that happen with the system. You would see that a possible task faced by a district attorney, when they have 60 trials on one day, and then someone complains when they plea bargained a case. I think that's important to see. I think it's important that we televise some

trials, record some trials in the State of Maine, and get them out to the public to see how the system works. Open the doors. But, it's ironic that this Supreme Court has been very reluctant to do that. They have been very, very reluctant to allow us into the courtrooms to televise any of the proceedings. Therefore, I find it amazing that they all of a sudden decided, when they have first said to the local press, "You can't come in." "The press can come in, but you can't televise it." Now they are turning around and saying, "Hey, CBS, that sounds like a good idea." I find that amazing, but that isn't why I oppose this. I believe in cameras in the courtroom, but I also, having tried a number of jury trials, believe in the sanctity of the jury room. It is a well-established legal principle that what happens in that room is not to be questioned, absent some showing of corruption or fraud. It is not our place to be questioning what happens in that deliberation room. When we go to a jury panel we make them come into the courthouse to serve on jury duty. We summons them. We have established laws, by statute, that say, "You can only get rid of a juror from the panel based on the principles that we have established. You can only remove a juror from the panel for just cause, or by what is called a preemptory challenge," which each side of the lawsuit is given a certain number of challenges. The way this would work though is, if a juror is called into jury duty, is sat down with the pool, and they say to them, "Is there anyone here who objects to being videotaped during the trial, and videotaped during the deliberations?" "I object." You're removed from the panel. We are adding a new concept to why a juror should be excused from a panel. We are doing it, not by legislation, but by an administrative order.

I am not sure that, let me rephrase that, I am not sure the result of filming trials, whether that is ultimately going to be good or bad for the legal system, but I think it is inevitable that we find out. Certainly, the final results of those types of things are not in yet. I would say that we should really hesitate to take that next step of filming what happens in the jury room before we even know what is going to happen from filming trials. I would ask you to oppose the current motion. Thank you.

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

Representative ETNIER: Mr. Speaker, Ladies and Gentlemen of the House: I will try to be as brief as the good Representative from Freeport, Representative Hartnett. I am not on the Judiciary Committee. I am not a lawyer. I am not a police officer. Believe it or not, I have never been on trial, and I hope never to be. I have never sat on a jury. I feel strongly about this issue though, and I am grateful to the good Representative, Representative Libby, for bringing this forward for our discussion. I concur with Representative Thompson that this is an appropriate place for this discussion, although I have incredible respect for the Supreme Court of this State, and choose to err on the side of the minority in this case. I am married to a lawyer. I am very proud of that fact. I haven't had a chance to discuss this issue with her, because I haven't seen her for a while, but I do feel this is an important issue. I do feel that this is an intrusive, unnecessarily intrusive, measure to proceed further beyond the courtroom into the deliberations of the

jury. I rarely buy into a slippery slope argument because one can be presented for just about every case before you, whether it is here or elsewhere in your lives, and I view those with great trepidation. I do view this as a precedent that would be extremely difficult to go back on. I, like Representative Thompson and others, are supportive of the limited use of cameras in courtroom settings, and have also been appalled by the overuse of them, as has been the case out on the west coast. I urge you, strongly, to oppose the Minority "Ought Not to Pass" Report and go on to accept the Majority "Ought to Pass" report. Thank you.

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

Representative PAUL: Mr. Speaker, Ladies and Gentlemen of the House: Many years ago I received a summons to serve on a jury in Superior Court in Alfred. At the time I was a full-time police officer for the Town of Sanford. I proceeded, on the appropriate date, to the Superior Court thinking that in no way would I serve on a jury, being a police officer. The jury was impaneled three different times that day. Eventually, I remained as a member of that jury. I have very strong feelings about cameras recording what is being deliberated in the jury room, and I hope you will follow my light and vote against this motion. Thank you.

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

Representative STEDMAN: Mr. Speaker, Men and Women of the House: It would seem to me that if the courts feel this to be a worthwhile activity, and one that would be serving the jury process, then the court should be in the best interest responsible for conducting this activity, not a commercial enterprise that has, at best, been very suspect in its efforts to present unbiased information. Thank you.

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

Representative GATES: Mr. Speaker, Men and Women of the House: This is a very close question, and one upon which reasonable minds can certainly disagree, as shown by a divided Committee report and even a divided order from the law court. It has been very interesting to think about for the last few days. I ended up making my decision based on just one word, and that word is "comity." It's not a word that we hear very often. It's not comedy like comedy and tragedy. It's c-o-m-i-t-y, and I have a definition for you, it's courtesy, respect, a willingness to grant a privilege, not as a matter of right, but out of deference and good will. It's a very important principle, one that we don't hear about very often, but the courts hear about it quite a bit. It's a corollary to sovereignty and separation of power. It simply recognizes that we are different branches of government, and maybe we just ought to, out of respect and the fact that we are in the same business in a different way, give them the benefit of the doubt. This is our house, and the courts have refused on numerous occasions to get involved in our day-to-day affairs, and they have done that out of the principle of comity. The courthouse is their house, and I respect the decision of the Justices and, frankly, I haven't made up my mind if I agree or not, but I think out of comity we ought to just let them do it, because it is their house and I urge you to let them run it. Thank you.

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

Representative MADORE: Mr. Speaker, Men and Women of the House: I'll be brief. The good Representative, Representative Gates, said that he felt the two separate branches, that the Judiciary had the control and had the wisdom to do this effectively. I agree with that. I trust the Judiciary, the problem is the Judiciary branch will not be editing this particular program when it is aired. CBS will be doing that. The judges will not be there when any of that is put together. They can only control so much of this. The question that I have, and no one has brought this up, and I posed this question to Justice Cole, what would this do regarding legislative intent? The feeling that although this is just for a one-time thing, could this be construed that the Legislature actually endorses this, later on when the press tries to get in and start filming the trials and everything else having to do with the case. Justice Cole said he didn't think there would be a problem, although several lawyers that I have spoken to after have said that the minute this goes down on the books they would most definitely use this as legislative intent. So, my feeling is this has far reaching implications beyond just this one time. I urge you to defeat the pending motion and support the Majority Report. I would request that the Clerk read the Committee Report. Thank you.

Representative MADORE of Augusta requested the Clerk to read the Committee Report.

The Clerk read the Committee Report in its entirety.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: When my near seatmate, Representative Libby of Buxton, first approached me with this bill that we are debating today, and asked if I would be willing to be a cosponsor of it, I agreed readily for one large, and I think, overreaching reason. That is that, certainly, ours, as a country, and ours, as a government, has lasted as long as any other democratic government because it is built upon the rights of individuals. Those rights are guaranteed to the governed. They are not the gifts of the government, because of that we carry those rights with us into all facets of our lives, including those places where they have been defined as sanctity of the home, sanctity of the ballot box, sanctity of the jury room. Any change or reinterpretation of any of those rights has been hotly contested in courts in this state and in our country. For that reason, I felt it important that before we strike a deal with a commercial entity for entertainment purposes, we should give pause, and very careful pause, to any change in the rights of the individuals that are involved. For the older generation I would ask you to think for a moment of the examples that may be clear in your minds of what happened with cameras in the courtrooms of the Lindbergh trial, or for the Littlefield trial here in the State of Maine some 60 years ago. For the younger generation, indeed for everyone in this room, I think you have to think back no further than the examples most familiar to us all of cameras in the courtroom for the Rodney King trial, or the O.J. Simpson trial. I repeat again, these are cameras in the courtroom, not the jury room. We have seen how the actions of the court, or

of a Congress, or perhaps even of this body now and again, have been altered by those people that feel the need to play to the greater jury, or the greater court, that of public opinion that appears beyond the four walls of the room in which we sit. Once jurors in many of those trials have had their faces seen, known, and become public, they have a whole different facet of their own life to deal with. Three of the Rodney King jurors are still under 24-hour protection. One has moved from the state in which the trial took place, and remains under 24-hour protection in another state. When the cameras in Judge Ito's courtroom accidentally strayed into the juror pool of the alternates, and showed for a millisecond the face of one of the alternate jurors in the courtroom, the Judge slammed down the gavel, ceased the trial, cut the cameras off, and lectured all sides most strictly because of the sanctity of the possibility that that juror might have to go sit upon the panel.

Now think, if all the jurors, and all the accused, and all the lawyers must approve of any deal that will allow cameras within the jurors' room that means that the only question to anybody who wishes to sit upon the jury that will matter is the question, "Will you agree to be filmed?" All other questions that qualify them as a good or a bad juror will be of no moment at all, because unless one retains unanimous agreement throughout all then you have no film. The purpose of the object is the film, or else the question wouldn't be asked. The only question that will matter to that jury is, "Are you going to be filmed?" Therefore, what if, at the last moment, some juror, as they file back into the box after one of these trials, says, "Your Honor, my conscience will no longer allow me to contain myself. I have changed my mind." What if, as the foreperson is standing to read the verdict, the foreperson swallows hard and says, "Your Honor, I can no longer take it myself. I disagreed with it, having sat through it for two hours or two weeks or two days and I disagree." What if, at the last moment, the accused rises in his seat, or has his lawyer say, "Judge, I have changed my mind." What then takes precedence, the Constitution of the State of Maine, the Constitution of the United States, or the contract with CBS? It would seem to me we are talking about a civil trial here. What happens when we finally move to a criminal trial? That is a trial in which somebody has murdered somebody else, to complete the comparison of juries.

We have seen exactly what cameras in the courtroom for a murder trial means. I recall you, again, to the O.J. Simpson example. It seems to me, since there are other methods of allowing the public to be equally entertained or educated that are a little less intrusive, we should encourage people who wish to understand the jury process to go to see the wonderful movie "12 Angry Men." Or, perhaps, if they wish to see how jurors can be swayed by courtroom antics let them see the equally wonderful film "Inherit the Wind." If you wish to see how the military tries civilians go see "The Andersonville Trial," a grand film, as good in its day as in ours. If the military, how it tries military personnel is your curiosity, see "The Cain Mutiny Court Marshall." All of these are plays, all of them are movies, all are based on reality, but all are make-believe. They are based on real people but they are not real events and we know that when we go to

see them, but I think it is a grave mistake if we confuse real life with a TV show. I think that education and entertainment aren't quite the same thing. I hope we will not do that today. For that reason, I would encourage you to vote against the Minority "Ought Not to Pass" Report so, indeed, we may go on and accept the Majority "Ought to Pass" Report of the bill sponsored by Representative Jim Libby. Mr. Speaker, because of the importance of the issue, I would request a roll call.

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

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

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

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

Representative GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: I have served on the jury several times. I suggest if we want real entertainment we should put the cameras on the lawyers in the hall.

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: I, too, am concerned by the present motion because, as many others have said, I think the ultimate use of this footage will be for entertainment purposes and those jurors who are filmed will really have no control over the eventual use of it in terms of the editorial comments made or the certain clips of the footage used to emphasize an editorial comment, which will only serve the purpose of the network and the editors. Also, the effect of the cameras, possibly, changing the way somebody would behave, but, on the other hand, there is the possibility that some jurors may forget, at moments, that they are being filmed because they are so well hidden, and may say things that they would rather not have on film, but it may be too late once they have done that. One other thing that I haven't heard mentioned that concerns me is how one network is getting this great privilege to film inside a jury room. Why, only because they are the first to request it, are we awarding CBS this great advantage? I would be offended to see on television, preceeding this broadcast, "CBS - the first inside the jury room," but I would be equally offended to see every other network following along and having their own show on the jury because one is at it and they feel equal access. So, I urge you to vote against this motion and let this bill pass and protect us from something that I think will demean what we have as a sacred process in the country. Thank you.

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

Representative CHICK: Mr. Speaker, Ladies and Gentlemen of the House: Possibly, I will be saying things that you have heard from other people here this morning, but I have had experience serving on a jury and I don't believe, based on my experience and

recollection, that I would recommend televising by whomever, for whatever, that it should happen in the State of Maine. I hope that you would vote not to allow this to happen. Thank you.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: I guess I do apologize for getting up again. Just two things. Clearly, the sentiment on the floor, Men and Women, is to move against this experiment and I think there is absolutely nothing constitutionally inappropriate or wrong with that decision. The real issue is whether we think it is a good idea that after many weeks and months, in terms of the discussions between the court system and the network, that this opportunity to shine a little light on the jury system is being made available. I tend to see that the importance of understanding those areas of our jury system that are in need of repair, and creating a climate of public examination, as being important. I do think that the 20/20, 60 Minutes-type programs are very valuable instruments for educating the public. I would support a bill that would stop any kind of regular practice, including if it were in Maine, the kind of regular videotaping of courtroom activity, but I do think it's important that we have a climate in our society when we can examine human institutions under very closely controlled environments. I believe the court has done that in this case. Thank you.

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

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: It's a beautiful day out there. Isn't it a shame that we have to spend it in here? I think if we stop a little bit of repeating what we have heard earlier today, and move on, I think we would all get out of here a lot earlier and I'll tell you, it's Holy Hell Week, I would like to get home. Thank you.

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

ROLL CALL NO. 354

YEA - Carr, Daggett, Fisher, Gates, Heeschen, Jones, K.; Lemaire, Richardson, Rosebush, Rowe, Treat.

NAY - Adams, Ahearne, Aikman, Ault, Bailey, Barth, Benedikt, Berry, Bigl, Birney, Bouffard, Brennan, Buck, Bunker, Cameron, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Damren, Davidson, Desmond, Dexter, DiPietro, Donnelly, Dore, Driscoll, Etnier, Farnum, Fitzpatrick, Gamache, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Guerrette, Hartnett, Hatch, Heino, Hichborn, Jacques, Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemke, Lemont, Libby JD; Lindahl, Look, Lovett, Lumbra, Luther, Madore, Marshall, Marvin, Mayo, McAleve, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nass, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Richard, Ricker, Robichaud, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stedman, Stone, Strout, Taylor, Thompson, Townsend, Tripp, True, Tufts, Tuttle, Tyler, Underwood, Vigue, Volenik,

Waterhouse, Watson, Wheeler, Whitcomb, Winglass, Winn, Winsor, The Speaker.

ABSENT - Campbell, Dunn, Johnson, Libby JL; Martin, Nickerson, Poirier, Stevens, Truman.

Yes, 11; No, 131; Absent, 9; Excused, 0.

11 having voted in the affirmative and 131 voted in the negative, with 9 being absent, the Minority "Ought Not to Pass" Report was not accepted.

Subsequently, the Majority "Ought to Pass" as amended Report was accepted.

Committee Amendment "A" (H-887) was read by the Clerk and adopted. Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

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

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Legal and Veterans Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-891) on Bill "An Act to Amend the Laws Relating to Harness Racing" (H.P. 868) (L.D. 1218)

Signed:

Senators:

FERGUSON of Oxford
MICHAUD of Penobscot
LEMONT of Kittery
LABRECQUE of Gorham
CARR of Hermon
TRUE of Fryeburg
FISHER of Brewer
GAMACHE of Lewiston
MURPHY of Berwick

Representatives:

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

Signed:

Senator:

Representatives:

STEVENS of Androscoggin
CHIZMAR of Lisbon
NADEAU of Saco
BUCK of Yarmouth

Was read.

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

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

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

The Majority "Ought to Pass" as amended Report was accepted. The Bill was read once. Committee Amendment "A" (H-891) was read by the Clerk and adopted.

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

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

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

ENACTORS
Emergency Measure

An Act to Amend the Hospital Cooperation Act of 1992 to Facilitate Integrated Health Care Delivery Systems by Authorizing and Supervising Certain Hospital Mergers (S.P. 636) (L.D. 1644) (C. "A" S-533)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

An Act to Improve the Child Development Services System (S.P. 753) (L.D. 1866) (C. "A" S-534)

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 Establish the Penobscot County Budget Committee (S.P. 613) (L.D. 1617) (C. "A" S-476)

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

On motion of Representative STROUT of Corinth was set aside.

The same Representative requested a roll call on passage to be enacted.

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

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

The pending question before the House is Enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 355

YEA - Adams, Aikman, Ault, Bailey, Barth, Bigl, Birney, Bouffard, Brennan, Buck, Cameron, Carleton, Carr, Chase, Chick, Chizmar, Cloutier, Clukey, Cross, Damren, Davidson, Desmond, Dexter, DiPietro, Donnelly, Farnum, Fisher, Fitzpatrick, Gamache, Gerry, Gieringer, Gooley, Green, Greenlaw, Guerrette, Hartnett, Hatch, Heesch, Heino, Hichborn, Jacques, Jones, K.; Jones, S.; Joy, Joyce, Joyner, Keane, Kneeland, Labrecque, LaFountain, Lane, Lemaire, Lemont, Libby JD; Lindahl, Lovett, Lumbra, Luther, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Murphy, Nass, O'Gara, O'Neal, Ott, Peavey, Pendleton, Perkins, Plowman, Pouliot, Reed, G.; Reed, W.; Rice, Richard, Ricker, Robichaud, Rosebush, Rowe, Samson, Savage, Shiah, Simoneau, Sirois, Spear, Stedman, Taylor, Townsend, Treat, Tripp, True, Tufts, Tyler, Underwood, Vigue, Vollenik, Waterhouse, Watson, Whitcomb, Winglass, Winn, Winsor, The Speaker.

NAY - Ahearne, Benedikt, Berry, Bunker, Chartrand, Clark, Daggett, Driscoll, Etnier, Gates, Gould, Joseph, Kilkelly, Kontos, Lemke, Look, Mitchell JE; Morrison, Poulin, Povich, Richardson, Saxl, J.; Saxl, M.; Stone, Strout, Thompson, Tuttle, Wheeler.

ABSENT - Campbell, Dore, Dunn, Johnson, Kerr, Layton, Libby JL; Martin, Nadeau, Nickerson, Paul, Pinkham, Poirier, Stevens, Truman.

Yes, 108; No, 28; Absent, 15; Excused, 0.

108 having voted in the affirmative and 28 voted in the negative, with 15 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

HOUSE DIVIDED REPORT - Majority (7) "Ought Not to Pass" - Minority (6) "Ought to Pass" as amended by Committee Amendment "A" (H-859) - Committee on Banking and Insurance on Bill "An Act to Control Health Care Costs and Improve Access to Health Care" (H.P. 1277) (L.D. 1753)

TABLED - March 27, 1996 (Till Later Today) by Representative VIGUE of Winslow.

PENDING - Motion of same Representative to accept the Minority "Ought to Pass" as amended Report.

Subsequently, the Minority "Ought to Pass" as amended Report was accepted. The Bill was read once. Committee Amendment "A" (H-859) 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.

Representative VIGUE of Winslow presented House Amendment "A" (H-896) which was read by the Clerk.

On motion of Representative LUMBRA of Bangor, tabled pending adoption of House Amendment "A" (H-896) and later today assigned.

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

SENATE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (S-517) - Minority (5) "Ought to Pass" as amended by Committee Amendment "B" (S-518) - Committee on Legal and Veterans Affairs on Bill "An Act to Clarify Definitions Under the Laws Concerning Games of Chance" (EMERGENCY) (S.P. 479) (L.D. 1303) which was tabled by Representative JACQUES of Waterville pending the motion to accept the House Amendment "A" (H-890) to Committee Amendment "A" (S-517).

- In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-517)

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

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House: I don't have to tell you that gambling is a highly charged issue in the State. There are strong feelings on both sides of the issue. I respect both sides. Anybody who was here in the 116th and sat through the casino debate would probably have to agree with me. Just a short time ago we passed 1303, which is a clean, simple,

well-needed bill that redefined games of chance, games of skill, et cetera. It was badly needed because if we hadn't done that we would have opened up the State to some of these video gambling machines. There would be no regulations on them. They could be put anywhere, including the school cafeterias. They could have been played by 10-year olds. So, I thank you for passing that bill 106 to nothing. That particular bill had a public hearing, had a work session, I know they spent a long time in Legal Affairs. It has been on your desk for a long time if anybody had any interest in it they could have taken a look at it. Late last evening appeared upon our desk an amendment, Amendment "A," which is a major public policy question whether or not to double the number of high stakes beano games in the state, going from 27 to 52 under the bill. Fifty-two weekends increases the licensing fee from \$50,000 a year to \$100,000 a year. It appropriates \$35,000 for the overtime that the State Police would need to watch over that. I feel as though such a high public policy question like that, a serious public policy question like that, should have had a public hearing and should have had the opportunity for people to come in and speak on it, pro and con, instead of coming to us as a House Amendment late last night. That's one of my reasons for feeling that we should not adopt this amendment.

Another one is that this badly needed bill that we passed 106 to nothing. I don't want to do anything to cloud the issue and threaten the passage of this bill. For this reason, I ask you to Indefinitely Postpone House Amendment "A." Thank you.

Representative CLUKEY of Houlton moved that House Amendment "A" (H-890) to Committee Amendment "A" (S-517) be indefinitely postponed.

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

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House: I, too, have the same concerns that Representative Clukey has. My concern is that, as I stated before, we have not had a public hearing on this issue where, in essence, we are permitting year-round gambling on reservations, as I understand it. It's a big policy decision for us to make, and I don't think we should be making it on a floor amendment. The other concern that I have is there are three gambling bills before this Legislature right now, 1303, the one we are talking about now, is regulatory in nature. It determines the rules by which we permit gambling activity to take place. If, indeed, we want to consider expanding those gambling activities on the Indian Reservation, it seems to me it would be more appropriate to attach that amendment to one of the other two bills that we are considering, which specifically deal with expanding gambling itself. I don't know whether this amendment is a good idea or not, because we haven't had that public hearing, but I do know that it is on the wrong bill. It should be either on one of the other two that specifically address whether or not gambling should be permitted. Thank you.

The SPEAKER: The Chair recognizes the Representative from the Penobscot Nation, Representative Biscula.

Representative BISCULA: Mr. Speaker, Men and Women of the House: Beano is something that already exists. It's nothing new, we are simply talking about expanding it so that there are more games than

there were in the past. It's not like this is a different type of gambling. Other organizations do this. The issue is whether or not Indians should be permitted to expand the beano operations. I ask that you not Indefinitely Postpone this amendment. Thank you.

Representative LUTHER of Mexico requested a roll call on the motion to indefinitely postpone House Amendment "A" (H-890) to Committee Amendment "A" (S-517).

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

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

The pending question before the House is the motion to indefinitely postpone House Amendment "A" (H-890) to Committee Amendment "A" (S-517). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 356

YEA - Adams, Aikman, Barth, Bigl, Birney, Bouffard, Buck, Carleton, Chartrand, Chase, Chizmar, Clukey, Cross, Davidson, Dexter, Gamache, Gates, Gerry, Gieringer, Gooley, Guerrette, Hartnett, Heeschen, Heino, Jones, S.; Joy, Joyce, Joyner, Kilkelly, Kneeland, Labrecque, LaFountain, Layton, Lemont, Libby JD; Lindahl, Look, Lovett, Lumbr, Luther, Madore, Marshall, Marvin, Mayo, McAlevy, McElroy, Meres, Murphy, Nadeau, Nass, Peavey, Perkins, Pinkham, Plowman, Povich, Reed, G.; Reed, W.; Rice, Robichaud, Saxl, J.; Shiah, Spear, Stedman, Stone, Strout, Taylor, Townsend, Treat, Tufts, Underwood, Volenik, Waterhouse, Wheeler, Whitcomb, Winglass.

NAY - Ahearne, Bailey, Benedikt, Berry, Brennan, Bunker, Cameron, Carr, Chick, Clark, Cloutier, Daggett, Damren, Desmond, DiPietro, Dore, Driscoll, Etner, Farnum, Fisher, Fitzpatrick, Gould, Green, Greenlaw, Hatch, Hichborn, Jacques, Jones, K.; Joseph, Keane, Kerr, Kontos, Lemaire, Mitchell EH; Mitchell JE; Morrison, O'Gara, O'Neal, Paul, Pendleton, Poulin, Pouliot, Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Savage, Saxl, M.; Sirois, Thompson, Tripp, True, Tuttle, Tyler, Vigue, Watson, Winn, Winsor, The Speaker.

ABSENT - Ault, Campbell, Donnelly, Dunn, Johnson, Lane, Lemke, Libby JL; Martin, Nickerson, Ott, Poirier, Simoneau, Stevens, Truman.

Yes, 75; No, 61; Absent, 15; Excused, 0.

75 having voted in the affirmative and 61 voted in the negative, with 15 being absent, House Amendment "A" (H-890) to Committee Amendment "A" (S-517) was indefinitely postponed.

Subsequently, Committee Amendment "A" (S-517) was adopted. Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-517) in concurrence. Ordered sent forthwith.

On motion of Representative MITCHELL of Vassalboro, the House recessed until 2:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

CONSENT CALENDAR

First Day

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

(H.P. 1238) (L.D. 1698) Bill "An Act to Expedite the Decision-making Process for Disability Retirement under the Maine State Retirement System" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-899)

(H.P. 1347) (L.D. 1842) Bill "An Act to Recodify and Revise the Maine Revised Statutes, Title 19" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-897)

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

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

ENACTORS

Emergency Measure

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) (H. "A" H-852 and H. "B" H-854 to C. "A" H-847)

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

On motion of Representative STROUT of Corinth, rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-847) as amended by House Amendments "A" (H-852) and "B" (H-854) thereto was adopted.

The same Representative presented House Amendment "C" (H-895) 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), "B" (H-854) and "C" (H-895) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-847) as amended by House Amendments "A" (H-852), "B" (H-854) and "C" (H-895) thereto in non-concurrence and sent up for concurrence. Ordered sent forthwith.

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

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

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative KERR from the Committee on Appropriations and Financial Affairs on Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997" (EMERGENCY) (H.P. 1280) (L.D. 1759) (Governor's Bill) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-892)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-892) was read by the Clerk.

Representative KERR of Old Orchard Beach presented House Amendment "A" (H-900) to Committee Amendment "A" (H-892) which was read by the Clerk.

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

Representative KERR: Mr. Speaker, Men and Women of the House: I first must congratulate every member in this body for helping to contribute to another unanimous Committee report that truly reflects the people's wishes. We provide tax cuts, there are no gimmicks in this supplemental, no tax increases in this supplemental. We also are concerned about the long-term care piece. We have taken care of that. The child protection piece, we have all heard about the 2,400 cases that have never been even looked at. We addressed that in this supplemental. The Consent Decree that is very dear to all of us, which was originally never in the supplemental, and through the work of Chief Justice Mills, with her decision, I think it opened up a lot of eyes on this third floor, and those on the second floor, that we should address this issue, and we have done that in this supplemental. We have also addressed concerns that Democrats and Republicans had with the repeal of the Gross Receipts Tax. We have done that in this supplemental. We have also done something that hasn't been done, that I know of, in the past five years. We have put money into the Rainy Day Fund, approximately \$22 million. I think that you can all pat yourselves on the back for that. I look at that as being progress. I urge you to support this unanimous Committee report because it truly reflects what I believe we all got elected for, to take care of the most vulnerable people in this state, people with mental illness, people with special needs. It also provides what we have been consistently doing, we did that in the biennial budget, tax relief for Maine people, we do that. It also provides surplus money so that we can address the next biennial budget. As you know, there has been some concerns on the second floor about the Gross Receipts Tax, and the gap that may occur in the next biennium. We don't know that yet, but a good start, we don't know what that actual number will be, but a good start for this Legislature to pass on to the next Legislature is the Rainy Day Fund that can at least address that issue.

One item that I think we are all very proud of is the circuit breaker money. There is almost \$5 million left in that account. That money will be carried over to the next year in the biennium, FY 97. As you all know, we worked diligently together to provide, or increase the eligibility for the circuit breaker program. Because it was a new program there were some people who filed late, or weren't aware that they were eligible. That's why

Democrats and Republicans alike felt that it was the prudent thing to do to carry those dollars forward, and we jointly agreed to do that. So, again, I must thank every member in this Chamber for your work, and your cooperation, so that the Appropriations Committee could do their work. I want you to know that we appreciate it because it really and truly reflects what the people of this state wanted and what you want. Thank you.

House Amendment "A" (H-900) to Committee Amendment "A" (H-892) was adopted.

Committee Amendment "A" (H-892) as amended by House Amendment "A" (H-900) 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-892) as amended by House Amendment "A" (H-900) thereto and sent up for concurrence. Ordered sent forthwith.

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

Bill "An Act to Control Health Care Costs and Improve Access to Health Care" (H.P. 1277) (L.D. 1753) (C. "A" H-859) which was tabled by Representative LUMBRA of Bangor, pending adoption of House Amendment "A" (H-896) and later today assigned.

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

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

The SPEAKER: The Representative may pose her question.

Representative LUMBRA: Looking at Committee Amendment "A," in the first paragraph it says that this would be eligible to families whose average gross monthly earnings, minus such costs for child care as is necessary for employment, does not exceed 185 percent of the federal poverty guidelines. Could someone answer what is that figure? How did you arrive at it? Thank you.

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

Representative FITZPATRICK: Mr. Speaker, Men and Women of the House: The amendment, and to respond to the Representative from Bangor's question, for a family of four 185 percent of poverty is \$28,860. As you will notice in the other part of the amendment, we also talk about insuring up to 133 percent of poverty, which, again for a family of four, is slightly in excess of \$20,000.

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

Representative LUMBRA: Mr. Speaker, Men and Women of the House: I would just like to tell you that I am a member of the Banking and Insurance Committee, and we did not have these figures when this came before us. We referred this section to the Committee on Human Resources, and we were looking and searching for some answers but never did receive them and never did debate this issue in Banking and Insurance. I would ask that you oppose this amendment, and I would ask for the roll call.

Representative LUMBRA of Bangor requested a roll call on adoption of House Amendment "A" (H-896).

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

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

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

Representative FITZPATRICK: Mr. Speaker, Men and Women of the House: I would ask that you support this amendment for a number of reasons. This was a bill that the Human Resources Committee did have a chance to look at as part of the Maine Health Care Reform package. We also did ship part of it back to the Banking and Insurance Committee. Let me tell you what we looked at and what really drove us towards suggesting this plan. When the Maine Health Care Reform Commission looked at the notion of who to insure and what population to insure what they found is that in the State of Maine there are 36,000 children, or 11.3% of the population 18 and less, who have no health insurance. The National Commission on Children found that most uninsured children see a health care provider only when a condition has become so severe that it must be treated immediately and at the most expensive cost, usually a hospital setting. We also learned that two-thirds, or 34 States, Men and Women of the House that's 34 States, have designated special programs to provide health insurance, or health care, to children beyond those eligible for coverage under basic Medicaid. Maine is the only New England state, and one of 16 states nationwide that has not developed a program to address the significant number of uninsured children, even New Hampshire has a health care program for children. Even New Hampshire. What have the outcomes been for those states who have children's insurance programs? What has been consistent is that access to timely preventive and acute health care significantly reduces health care costs. AFDC caseloads go down and enrollment in other cash incentive welfare programs also are reduced. There has also been a consistent pattern of incentives provided for low income women to enter the workforce without the fear of losing health care for their children. A recent telephone survey of a number of states with special children's health care programs showed that in many states parents, primarily mothers, or former enrollees no longer miss work to take care of sick children and were able to obtain wage increases and promotions that took them off, and kept them off, welfare.

I tell you, Men and Women of the House, this is an extension of the welfare reform that we did in the first session, but it is also a move further than that. This allows men and women in Maine, who are working for a living and simply don't have access to health care, it allows many of those children who currently have no access to health care to move into the mainstream, to get the necessary shots and necessary treatment. It allows not for shifting cost on the hospitals and charity care. It brings us back into the mainstream with the rest of New England. I ask you to support the Majority Report. Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I wish to add my voice of support to this program for helping children. At first I was totally opposed to it. We were looking at two and a half times the poverty rate, and this is not an area that I like to get involved in, when we are talking more money than most of my people make back home. Presently, it has been changed to an average that we probably, or should be able to live with, 185 percent of the poverty level. This makes a lot of sense to me. If we invest in our children this will save us up to four times the added expense at a future date. Somebody said to me you don't see anybody on the street who hasn't been taken care of. The thing is, if there is an emergency, they end up in the hospital and they will be cared for, but the best way to do it, and the longest and most effective way, is to treat the kids as they are growing up and have preventive care. I am now very comfortable with the goals of this report. Previously I was on the opposite report but I am now very comfortable with the Minority Report. If we can put money into special schools for the elite, or the highly intellectual element of our population, we surely can put 1.2 million dollars to help needy kids. I urge you to please support Amendment "A" and this program. Thank you.

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I, too, as a member of the Banking and Insurance Committee would like to lend my support to L.D. 1753. While the good Representative from Bangor, Representative Lumbra, is correct in that when this bill was before us briefly we did not have many of the facts and figures. We did, however, discuss it both before and after it went to the Human Resources Committee. I would like to quote from one of the documents that was distributed to you a few minutes ago. "In order to break the cycle of poverty we need to provide for our children and give them the tools they need to grow up and become healthy and productive adults. Adequate health care is a terrific start." Ladies and Gentlemen of the House, I urge you to support L.D. 1753. Thank you.

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

Representative WINGLASS: Mr. Speaker, Men and Women of the House: House Amendment "A" truly adds the crucial missing element to what is now called An Act to Provide Health Care Coverage for Children. This amendment presents us with a rare opportunity to do something for the youngsters whose parents often, both of whom are employed, are at work struggling to keep their families intact. It gives us a chance to share, and allow them to share, in the beauty and the bounty of this great country of ours. Representative Vigue, in his amendment, has, in a very astute way, added the managed care component to this amendment and that has strengthened it, and I applaud that action on his part. If you look back at the Maine Health Care Reform Commission, and their report, there is very little of this that is still with us. Much of it has been cut and carved away in the face of the economic situation we face in our State, but this remains, and this provides us, as I said previously, a rare opportunity. The program expands coverage to youngsters 18 and under. Around the

world I have seen plenty of kids that are three or four or five years old and my heart would bleed and almost break when you could see what becomes of those youngsters with no decent health care. In this country we have almost the same situation in certain circumstances. Here we have working parents who are trying very hard to realize the American dream and we have a chance to prevent something which is stifling them, and that is the absence of health care. We have a chance to take care of our youngsters. We have a chance to see those kids into doctors' offices, where disease can be controlled at an early stage, rather than wait until the kid is suffering and you have to take him to the emergency room. I think it's high time that we got onto this bill and passed it with a resounding majority. Thank you.

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

Representative LUMBRA: Mr. Speaker, Men and Women of the House: I appreciate Representative Winglass' comment, and I want to rise just for the record so that you know why I oppose this. It is for the working families that I oppose this. I understand health insurance and the way costs increase quite well, I think. It has been part of my background. I worked in the medical field and I was a nurse for 8 years. Let me ask you a question. What happens to a family of five or six children that earn \$29,000? What happens to a family of eight children that earns \$30,000? These people are working poor as well. This bill will only raise the cost of insurance to other working families. I don't know if you realize how Medicaid works, but I met with some doctors in my area last weekend on health care reform and they told me the number one thing that increased costs to their patients was Medicaid. If you have \$100 office visit, or test, and they send it into Medicaid, they get \$13.85. They can't live on \$13.85, or run their business on \$13.85. Someone has to make it up. It's the rest of us who don't have Medicaid, or have private insurance, or have no insurance and can't qualify for this. That is why I oppose this. I strongly believe in efforts to bring down the cost of health care. I believe we have done that in future legislation that this body will be hearing. I strongly believe in health care that is accessible to everyone. But this isn't it. This is not taking into account the other working families that are struggling to get by and this will increase their cost of insurance that may make it too much that they can't afford it, and they will be without insurance, because they have five children and earn \$29,000, instead of \$28,860. That's why I oppose this and I wanted to be on the record for that. I am not against children. I am not against health care for children, but I am against raising the costs for our working families. Thank you.

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

Representative GUERRETTE: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to concur with Representative Winglass that what we need to do is we need to take care of our young children. We need to worry about those young children that don't have health insurance. We need to look out for their best interests. Ladies and Gentlemen of the House, I oppose this bill, and the reason I oppose this bill is not because I don't want good health care for all children in America. I grew up in a family of 7

children, and we would have been eligible for this particular program every year that I lived at home until I was 18. I understand what living in this type of level-of-income family is about. That's how I grew up. I can tell you that my difference with this bill, and the reason I oppose it so strongly is I do not want to make more people in the State of Maine dependent on the state government. It's not a philosophical argument about should we provide health care. It's a discussion about who will pay for that health care. I don't want to take the money away from mom and dad through the method of taxation, take a big chunk out of the money I took out of their pockets, hand them back a little piece, and tell them I did you a favor. That's the kind of help the families, the low-income working families of Maine, do not need. We need to let them keep the money they earn. Let them keep the taxes they pay into the Medicaid system, instead of taking it from them, and let them purchase their own health care so they don't become dependents of the State of Maine and its welfare system, so that they become self-sufficient.

We, as a society, must think of them, and must help them take care of themselves and to take their money and give them back only a little piece does not help families in Maine. I encourage you to oppose this bill. Vote for families in Maine. Lower their tax rates if you want to help them. Give them the opportunity to pay for their own health care needs. Thank you.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I am stunned and astounded by some of the debate today. When we talk about the challenges that are facing low-income families, and we talk about taking their money away from them and only giving them a little bit back, what's amazing to me is the other thing that we may be giving them back is a chance to take care of their babies. I raised three children by myself. It was an incredible challenge. I was very, very fortunate the jobs that I ended up having had health insurance. If I hadn't had health insurance, and one of my kids had become sick, it wouldn't have been part of the scheme for me to be able to care for that child. We are talking about providing an opportunity for children to be healthy, for children to have access to the same kind of health care that you and I have access to. When our children get sick our children go to the doctor. When some of these other children get sick they don't go to the doctor. They wait until they get to an emergency room because they have pneumonia because nobody could treat the cold, or they've got rheumatic fever because nobody could treat the strep throat. That's what we are talking about. Childhood is a short period of time. It's a period of time in which a young body grows and it's not okay that those bodies die because we are concerned about taking a little bit of money from somebody and not putting something back.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House: I just thought I would bring up a short list of some of the programs we have in the State of Maine for children. We have the Division of Public Health Nursing. We have the

Healthy Families Program. We have the Families at Risk Program. We have the Division of Maternal and Child Health. We have the Childhood Injury Control Program. We have the Genetics Program. We have the Coordinated Care Service for Children with Special Health Care Needs. We have the Teen and Youth Adults Health Program. We have the Women and Children Preventive Health Program. We have the Nutrition Program. We have WIC, Women, Infants and Children Program, Farmer's Market and Nutrition Program. We have the Division of Health Promotion and Education. We have the Bureau of Child and Family Services. We have the Child Protective Services. We have the Foster Care and Parents Planning Service. We have the Group and Residential Treatment Resources Program. We have the Child Care Licensing, Social Services Contracting, Aid to Families with Dependent Children, AFDC, Emergency Assistance, Food Stamp Program. So, on and on, and several other programs. So, it's not like we are not helping the children of the State of Maine. Thank you.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: With my business background, I tell you Ladies and Gentlemen, this Amendment "A" to 1753, the healthy program for children, makes good business sense. I urge you to support Amendment "A" to L.D. 1753. Thank you.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Simoneau.

Representative SIMONEAU: Mr. Speaker, Men and Women of the House: I have to back up a little bit as to why we are talking about this measure. This measure is not in the budget and I do not speak as a member of the Appropriations Committee. There are some people who think that, perhaps, I have been bought. I have not been bought. There are times in this body when you have to stand and speak your conscience and speak for what you believe. This is one such time. I'm going to repeat what I said last session, just to remind you of where I am coming from. I believe I quoted the Bible to you. I tried to remember reading the Old Testament, and I believe it was Moses, when the people came to Moses complaining and grumbling about taking care of the orphans and the illegitimate children. He told them that they are the children of the tribe and that they were responsible for them. That was several thousand years ago, and we still have our children of the tribe. I rise as a child of the tribe. I rise as their personal representative to remind you that you are still responsible for them today. Thank you.

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

Representative PERKINS: Mr. Speaker, Men and Women of the House: We had a meeting the other day on this and about half of this body was there. We talked about making sure these children were protected and covered and the answer was always, I heard it two or three times, they are already covered. When I asked how, and it was that they can go to the emergency room. Until we are ready to take our kids to the emergency room I'm going to support this. Thank you.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I think it's great that we

have all these services for children. I really didn't realize that the list was quite that long, but it is. I think it's time now for us to go on and to add one more service for these children. I certainly don't mind spending whatever it will cost me for the children of this State. If it will give them better health I am sure we will have better kids as adults. Let's go on and pass this amendment. Thank you.

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

Representative SAXL: Mr. Speaker, Men and Women of the House: In the State of Maine there are more children living in poverty than in any state in this nation, with the exception of Louisiana. Today we have a chance to join 38 other states in this country to do the right thing and to help those people, our children, those people in our communities who are least able to help themselves. I'm standing up for the children today, the children of the State of Maine. In a recent report from the General Accounting Office, they said that this is why we need to provide health care for children. Health insurance helps children obtain health care. Children without health insurance are less likely to have routine doctor visits, seek care for injuries, and have a regular source of medical care. Their families are more likely to take them to a clinic or emergency room, rather than a private physician or health maintenance organization. Children without health insurance are also less likely to be appropriately immunized, an important step to preventing childhood illness. Thirty nine million children in this country go without appropriate health care and medical care. This amendment before you today is a small step towards addressing the 36,000 children in the State of Maine who go without. I think we owe it to the children of the State of Maine, and working people in the State of Maine, who are struggling to make ends meet and want health care for their children, and who want to do well by their children, to pass this amendment today. Thank you.

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

Representative CAMERON: Mr. Speaker, Men and Women of the House: I rise to support this amendment today. I can't help but reflect on when my wife and I were first married, and we didn't have any health insurance. It's a very uncomfortable position to be in. Our first child was born and we didn't have any health insurance. We got the bills paid but it was not easy. Because of our responsibility that we hold here today, and we know we have to pay our bills and we know that we have to keep our taxes under control. We talk about the resources of this state. We talk about renewable resources. We talk about depleting resources. Ladies and Gentlemen, the most important resource that we have in this state for the future is our children. This amounts to \$1 per citizen for the State of Maine. There are about 1.3 or 1.4 million people in Maine. This is 1.2 million dollars. It's about \$1 per citizen. I know there are other programs, but we will never have a program that covers everybody. I am here to tell you that it doesn't take but a handful of sick children with some of the catastrophic diseases that children get to use up a whole bunch more than 1.2 million dollars and we will pay, one way or another, they are covered. For those of us who live in small communities, that have small community hospitals especially, and we are not

the only ones affected by it, but those of us who live in small communities with small rural hospitals, it is a tremendous cost to these small hospitals. The children will be covered one way or the other. I do believe that this is probably the least costly, and most cost effective, way to cover them. I will be supporting the amendment and I encourage you to as well.

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

Representative McELROY: Mr. Speaker, Ladies and Gentlemen of the House: Right now I feel very depressed about some of the conversation I hear. When I push my button I will feel great as I support this issue. Thank you.

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

Representative LANE: Mr. Speaker, Ladies and Gentlemen of the House: I must rise to tell you that I am quite troubled by the inference that I am hearing that if we are opposed to this amendment then we are not for children's health. I am for children's health, as I'm sure we all are. We are for the needs of our children in the State of Maine, but I am for doing it the right way and the fair way. I think that 13 cents on the dollar paid to doctors is not fair. I think that a program that leaves out half the families in the State of Maine is not fair. I object to the rhetoric that I hear coming from this body. It leaves you with the feeling that if you vote against this amendment you are voting against the children. I am voting against this amendment because of its unfairness. I think we came down here, a good many of us, with the idea of downsizing government, not establishing a brand new bureaucracy. I rise in objection and I will be voting against this amendment. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "A" (H-896). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 357

YEA - Adams, Ahearne, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Carleton, Carr, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Hartnett, Hatch, Heesch, Heino, Hichborn, Jacques, Jones, K.; Joseph, Joyce, Keane, Kerr, Kilkelly, Kneeland, Kontos, LaFountain, Lemaire, Lemke, Look, Lovett, Luther, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Paul, Peavey, Perkins, Plowman, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tufts, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, Winglass, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Buck, Guerrette, Jones, S.; Joy, Joyner, Labrecque, Lane, Layton, Libby JD; Lindahl, Lumbr, Nass, Ott, Pendleton, Pinkham, Robichaud, Stedman, Underwood, Waterhouse, Whitcomb, Winsor.

ABSENT - Birney, Campbell, Donnelly, Dunn, Johnson, Lemont, Libby JL; Martin, Nickerson, Poirier, Stevens, Truman.

Yes, 114; No, 25; Absent, 12; Excused, 0.

114 having voted in the affirmative and 25 voted in the negative, with 12 being absent, House Amendment "A" (H-896) was adopted.

On motion of Representative VIGUE of Winslow, the House reconsidered its action whereby Committee Amendment "A" (H-859) was adopted.

On further motion of the same Representative, Committee Amendment "A" (H-859) was indefinitely postponed.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-859) and sent up for concurrence.

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

SENATE PAPERS

Ought to Pass as Amended

Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-541) on Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (EMERGENCY) (S.P. 711) (L.D. 1811)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-541) as amended by Senate Amendment "A" (S-555) thereto.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-541) was read by the Clerk. Senate Amendment "A" (S-555) to Committee Amendment "A" (S-541) was read by the Clerk and adopted. Committee Amendment "A" (S-541) as amended by Senate Amendment "A" (S-555) thereto adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-541) as amended by Senate Amendment "A" (S-555) thereto in concurrence.

Ought to Pass as Amended

Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-544) on Bill "An Act to Provide for Assisted Living Services" (S.P. 731) (L.D. 1835)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-544) as amended by Senate Amendment "A" (S-552) thereto.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-544) was read by the Clerk. Senate Amendment "A" (S-552) to Committee Amendment "A" (S-544) was read by the Clerk and adopted. Committee Amendment "A" as amended by Senate Amendment "A" thereto adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-544) as amended by Senate Amendment "A" (S-552) thereto in concurrence.

Ought to Pass as Amended

Report of the Committee on Agriculture, Conservation and Forestry reporting "Ought to Pass" as amended by Committee Amendment "A" (S-542) on Bill "An Act to Encourage Enterprises Engaged in Agriculture and Aquaculture in Maine" (S.P. 734) (L.D. 1843)(Governor's Bill)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-542).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-542) 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-542) in concurrence.

Non-Concurrent Matter

Bill "An Act to Reform Campaign Finance" (I.B. 5) (L.D. 1823) on which the Majority "Ought Not to Pass" Report of the Committee on Legal and Veterans Affairs was read and accepted in the House on March 28, 1996.

Came from the Senate with the Minority "Ought to Pass" as amended Report of the Committee on Legal and Veterans Affairs read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-836) in non-concurrence.

Representative NADEAU of Saco moved that the House Insist.

Representative RICHARDSON of Portland moved that the House Recede and Concur.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: The bill before you is the campaign finance initiated referendum. I know that the overwhelming majority of members of this body have reservations about the role of money in politics. I also know that for many of you the devil is in the details. There are aspects of any legislation in a complicated area like this that can worry any and all of us. For some of us who have been involved in this issue for a long time, the constitutional issues that were addressed in the House Order, the solemn occasion, are for us answered. The limitations of Buckley versus Valaio, a Supreme Court decision of 1976, in fact necessitate many of the complexities, many of the details, many of the circumstances in this bill. I worked with others on this legislation for many years and we worked with a lot of national legal experts and for us the constitutional issues are absolutely clear.

This bill was crafted so that it could, in fact, dynamite the present system of money and politics and do it constitutionally. For others of you I respect and know that that is not a closed issue. Although I had initial reservations about it, I now am pleased that there is a solemn occasion that has gone out, and presumably, in all due speed, there will be a pronouncement from the court on that. That may not end the matter because, of course, a case and controversy could arise in the legal system later on on this issue, and that's as it should be. For myself, there is no question of the constitutionality of what is before us. I will not attempt to, in any way, go through the details of this. I'm sure, by

now, everybody is fully aware of this. Make no mistake about it, we are on the edge, in Maine, with significant sentiment from a very wide constituency of dynamiting the money and political system that is part of our political system. It's not a perfect way of doing it. The limitations of Buckley versus Valaio make it difficult to do. We are on the edge of changing the political culture of Maine. I hope you will join me in supporting the Recede and Concur so that we can join in the 33-to-2 decision of the other body to enact this into law and give ample time for any issues of a constitutional nature to be directed either through the solemn occasion or through a case and controversy.

We, Ladies and gentlemen, have an opportunity here to create an environment in which legally and constitutionally a new political culture will essentially ratchet down the cost of campaigns and eliminate the role of private money in campaign politics. We can bring a new era to money and politics in Maine, and I urge you to join in supporting this historic legislation. Thank you.

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

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

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: First of all, I will ask for a division on this matter. One of the first comments I'll make is picking up from where the good Representative from Portland left off. He alluded to cynicism. He alluded to the fact that the voters want this whole concept of big money taken out of politics. That may, in fact, be correct. However, this is a 15-page document. Our Committee, when we held the public hearing on this, as a matter of fact I asked the question, how many of you folks do you really believe read the whole text? The answer was there were 60,000 people who signed it. They never really answered my question. I think that speaks for itself. The people may, in fact, be very cynical. They are also very cynical about the so-called playing the game to try to keep this situation away from them. If, in fact, this is a strong bill, and there are strong elements to it, why are we depriving them of the right to decide it? Why are we depriving them the opportunity to debate the issue, the good points, the not so good points? It just seems to me that with an 11-to-2 committee recommendation, we probably spent more time on this than we really should have. We thought about this for a long time. We spent a great deal of energy on it. What the members of the other body have done does not, in any way, affect what this body is going to do. You need to know that the two members of the Committee that voted in the minority fashion are members of the other body. Enough said on that topic.

This, I believe, just will add to the cynicism. I can see it now, the next time you go into the hall for a drink of water somebody will stop you and say, "What other games are you guys going to play?" That is the next question. They are already cynical of us and thinking how are these guys going to maneuver

this thing now. I have been asked that probably 30 times already. How many more times are you going to try to maneuver this? If, in fact, the 60,000 people that signed the nomination petitions felt strongly that there was an issue, there probably is an issue. Is this a perfect bill? Absolutely not. I'll be the first guy to tell you that. Are there some good points? Yes. Can this Legislature fine tune it in the next session? Probably, and I hope you do. However, there needs to be a full airing out of the pros and cons of this bill. I strongly believe that you should vote against the pending motion on the floor.

Representative NADEAU of Saco requested a division on the motion to Recede and Concur.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: You know, I think it's important that I say something about this bill, given the fact that I spoke earlier about the influence of cameras in the courtroom. I would be wrong if I said money doesn't influence politics. I just think it does. That might be my opinion, but I just think it does. There are a lot of aspects of this particular bill that I do not like, in fact there may be more in it that I do not like than I like. I haven't decided that yet. Public financing, I know I don't like it, but I'm going to swallow really hard and tell my colleagues on both sides of the aisle that I think we have to do this, even though I don't like it. Do you know why we have to do this? I think because many of us in this body have come in front of a committee like the Legal Affairs Committee with bills to reform the campaign finance structure that we have now. Many of us left that committee with a huge ought not to pass and we were told, and I'm not blaming the Committee, they tried, but we were told, "Look, we are going to take care of your concerns. We are going to take care of your problems. We are going to have a comprehensive bill. We are going to come out with something." This is something that I have been doing for four years. I have gone in front of this Committee with several bills. If I had gone in front of this Committee with no bills, I wouldn't be up right now, but I did. I went in there with campaign finance reform bills, and I came out of there every single time with an "Ought Not to Pass." You didn't come through for me. You said you would reform the system. We didn't get it reformed. So, now the people have gone out and collected signatures because they are tired of our inaction. So am I. That's what we have in common. We are tired of the inaction. The question is, should we just do nothing, or should we listen to the people? In this particular case I think the people have spoken. They want some action, so it's up to this body. You can swallow really hard and vote for this thing, even though there are some parts of it you don't like, and at least take some kind of a step to try to do something about campaign finance reform, or you can kick it out to the people and you know what they are going to do in November. They are going to vote for this thing. What I am saying is, again, I don't like the bill. I know some of you don't like the bill. I don't like public financing, but we have done nothing for years and years and years. We have got to do something. I think it levels the playing field somewhat. I did come down and say that there is more good than bad, just barely more good than bad in this

bill, so I am going to ask that you support the recede and concur motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Caribou, Representative Robichaud.

Representative ROBICHAUD: Mr. Speaker, Men and Women of the House: Happy Saturday. I had the pleasure of serving on the Legal Affairs Committee in the 116th Legislature. It was truly a memorable experience. I want to tell you we spent one very Appropriations-like night working well into the night during the 116th, trying to craft some furious campaign finance reform. We worked very hard with the group Common Cause who put together the proposal we are accepting today in the citizens' initiative. We did come out with a unanimous report. We had three bills which subsequently failed in the 116th Legislature. That is what has led to the document that we have before us today. Yes, the people readily supported it. The people were ready for something, anything, because they saw inaction in the Legislature, but we have to make sure, and the people need to make sure, that they are not taking action in favor of something just for the sake of taking action.

I would just like to mention a few of the points in the bill that you may or may not have found in your reading of it. There is one section of the bill that would require some updated equipment for the Commission on Governmental Ethics, to keep track of campaign finance reform, lobbyist fees and that type of thing. I don't think that is a bad measure. I think that is perhaps something that is very long overdue, but that is only one part of the bill. There is a change in the reimbursement to Commission members, going from expenses only to legislative per diem. That is going to cost more, but again, that is only one part of the bill. There are changes in the amounts that individuals and committees can make to political candidates. They are reductions below what we have now, and, in fact, if you look, a committee has a lower limit to make a smaller contribution than an individual. PACs tend to get a bad rap, but one thing that I found out during the 116th discussion is that PACs were put in originally as a campaign finance reform measure. You may not believe that, but the reason is PACs have very stringent reporting features, whereas if an individual makes a campaign contribution the only place that is noted is on the candidate finance form. A PAC needs to turn in a finance form all its own, so, twice that contribution is reported. Those are a lot easier to trace, and in this bill what we are doing is limiting the amount of those reportable contributions. Also, there is an issue when it talks about aggregate expenditures. It says, "A Committee may not make an expenditure in support or opposition to the candidacy of one person in an aggregate of \$5,000 in any election." I just have a little question. Does that include a candidate's campaign committee? That might be a minor one but that's still a legitimate question that you have to ask.

One of the things on here, just to cut to the quick that really bothers me about this initiative, is there is an element on page seven that talks about a qualifying contribution. Now, a qualifying contribution in this bill is when you are going out to get your signatures, every time you collect a signature from someone on your petition paper, you also need to collect \$5 from that person. What, \$5 per signature? You are having to pay to cast a vote or sign someone's petition? It doesn't sound very

democratic to me, actually it smacks of a poll tax to me, but that's my interpretation. Also, we talk often about how long campaigns are. Campaigns last forever. Why can't we shorten campaigns? Well, for a gubernatorial participating candidate the qualifying period begins November 1. That's a year before the election. It ends at 5 p.m. March 16. It ends one day later than it ends now as far as gathering signatures. For legislative candidates it's about the same, January 1 until March 16, so we get one more day. Then we have a thing called the Clean Election Fund. All the money that is collected through various fees, including a \$3 checkoff on tax returns, goes into this fund. Let me just mention, we have had numerous discussions on this floor about how to spend the taxpayer money that they send into the state on the tax returns, and we do have various checkoffs on the tax return, all for very good and worthy purposes, but you know as well as I do, every time you check off \$3, \$4, \$1 on a tax return you are dedicating that money. So, every time someone will check off \$3 on their tax return, that's \$3 that can't go towards education, can't go towards our existing programs for children, can't go towards our environmental clean-up. That's something to consider. We are going to take that money and we are going to turn around and hand it back to political candidates to run campaigns. Let me see, we are taking money away from children and education to put into political campaigns. It's a very interesting proposal.

I was very pleased to see that a solemn occasion had been used to ask some very critical questions relating to the constitutionality of various elements in this. I don't claim to be a constitutional scholar, but I did get a crash course in the 116th and I do know that Buckley versus Valaio made some things very clear when it came to how you can limit. One of the things that raised a red flag for me on page 10 was when it said, "A participating candidate must limit candidate seed money to..." a specific amount. In other words, if you want to put your own money in, you are limited to how much money you can spend. You are limited in your freedom of expression in spending your own money towards your own campaign. I am anxiously awaiting the courts decision on that particular item. I don't disagree, at all, with the people's wanting to see us do something. I would like to see something done myself. I would love for us to take the initiative and come up with some serious campaign finance reforms and show the people that we hear them and we legitimately believe in making sure that elections are run in a responsible manner, free from influence and intrusion. However, I am very worried about the contents of this measure. They are done with altruistic purposes, but I'm afraid they will have some very unintended consequences. Let us send this measure to the people to have a legitimate debate. You may wish to talk with your constituents and make sure that they are informed about the contents of this 15-page bill. I would urge you to oppose the measure to recede and concur. Thank you for your patience.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I just wanted to say that I believe very deeply in this bill and I am going to be voting for it for that reason. I believed in it

enough to collect signatures for it. I can't speak to the experience of other people who collected signatures, but in my precinct we ran out of petition forms because people were so eager to sign. Furthermore, I personally laid out for the people who came to my table how the Clean Elections Campaign would be paid for. Particularly when I mentioned the fact that lobbyist registration fees would be raised did they grab the pen and sign. I take Representative Robichaud's point about the \$3 voluntary check-off being diverted from the General Fund. Let me just say that our current system has everything to do with the way that public monies are spent. If you think that the lobby does not affect the way that the General Fund gets divided up come downstairs sometime. If you think that public policy is not determined, that the taxpayers dollars are not determined by the lobby you are mistaken. I'll just refer to one particular example. You may be aware that a number of states have chosen to go forward with the lawsuit against the cigarette industry, and that the Ligot Company has settled and that each state that engaged in that lawsuit is receiving \$2 million this year, and will be receiving substantial sums of money for the next 25 years. A good deal of money was spent by the tobacco lobby in this building last year to prevent our joining that lawsuit. So, the current system has everything to do with the way decisions are made and I think that becomes clearer as we read the papers recently. If you believe, as I do, that the current system is not adequate, that it must be changed, please vote to recede and concur. 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: I'm not before my Committee so I am going to be really brief. This started as an attempt to let the voters decide this issue. I think that some people here sincerely want this issue to pass and they are going to vote to recede and concur because they sincerely want campaign finance reform. I have no doubt about that or about several members who have spoken today. But, there are some people who want this to pass so that the voters don't get to decide it. A really simple solution if we don't recede and concur is that the voters get to decide. What I like about the voters getting to decide is that if I were running in the next election, which I am not, and I didn't let the voters have this decision, if I were the opponent of somebody who didn't let the voters have this decision what I would say in my campaign is something like this: My opponent chose to spend tax dollars on their campaign. Is that entirely true or accurate? No, but that's how I would run my campaign. I would say my opponent chose to spend tax dollars on their campaign rather than on children's immunization or on this or that or the other thing. I had several people say to me that the voters aren't going to understand this. Every time I have been told the voters aren't going to understand something I have generally found, in the last decade, that they have understood it quite thoroughly from both perspectives. So, the only way to send this to the voters is not to recede and concur and I just have this basic faith that the voters will do the right thing and that if you pass it, you may be vulnerable to the accusation that you chose to spend tax dollars on your campaign. I don't know how you are going to

answer to that. It's not something that I will have to answer. I wouldn't want to spend campaign time explaining it. I do think, incidentally, that we do need campaign finance reform. As somebody who has played by the rules as they exist today I don't know where you begin. I think you begin by letting the voters make a decision. From there you look at some other alternatives, but I first start by letting the voters have this on the ballot. Thank you.

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

Representative RICHARDSON of Portland requested a roll call on the motion to Recede and Concur.

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

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

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

ROLL CALL NO. 358

YEA - Adams, Benedikt, Berry, Brennan, Buck, Bunker, Carleton, Carr, Chartrand, Chase, Davidson, Etnier, Gates, Green, Heesch, Jones, K.; Lemke, Libby JD; Meres, Mitchell JE; Morrison, Perkins, Povich, Richard, Richardson, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Stevens, Townsend, Treat, Tuttle, Volenik, Watson.

NAY - Ahearne, Aikman, Bailey, Barth, Bigl, Bouffard, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Desmond, DiPietro, Donnelly, Dore, Driscoll, Farnum, Fisher, Fitzpatrick, Gamache, Gerry, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Hatch, Hichborn, Jacques, Jones, S.; Joseph, Joy, Joyce, Joyner, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Layton, Lemaire, Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Mitchell EH; Murphy, Nadeau, Nass, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Plowman, Poirier, Poulin, Pouliot, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rosebush, Savage, Sirois, Spear, Stedman, Stone, Strout, Taylor, Thompson, Tripp, True, Tufts, Tyler, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor.

ABSENT - Ault, Birney, Cameron, Campbell, Dexter, Dunn, Heino, Johnson, Keane, Kerr, Lane, Lemont, Libby JL; Luther, Martin, Nickerson, Pinkham, Simoneau, Truman, Underwood, The Speaker.

Yes, 36; No, 94; Absent, 21; Excused, 0.

36 having voted in the affirmative and 94 voted in the negative, with 21 being absent, the motion to Recede and Concur did not prevail.

Subsequently, the House voted to Insist.

Non-Concurrent Matter

Bill "An Act to Revise the Salaries of Certain County Officers" (EMERGENCY) (H.P. 1379) (L.D. 1887) which was passed to be engrossed in the House on March 29, 1996.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-551) in non-concurrence.

The House voted to Recede and Concur.

ENACTORS

An Act to Authorize the Disposition of Property Interests at the Pineland Center (S.P. 749) (L.D. 1859) (Governor's Bill) (C. "A" S-528)

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 Clarify Definitions Under the Laws Concerning Games of Chance (S.P. 479) (L.D. 1303) (C. "A" S-517)

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

On motion of Representative NADEAU of Saco was set aside.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: First thing I will ask is for a division on this matter. I think you need to know a couple of the consequences of this action. One is that the way 1303 and Committee Amendment "A" was crafted it is a direct contradiction to what Justice Cole had to say about this matter last year. Are we in the business of overturning the court? Personally, I don't think we should be, but I guess the final decision is yours. Actually another side issue here is the whole thing with gray machines. Some people really get caught up with the buzz phrase "gray machine," and they probably should get to that conclusion. However, with that good element of this amendment and the other element, that I think is totally off base, the end result is it's probably not a good amendment. If we, in fact, enact this bill, we basically will be going back to a situation, and I'm not personally involved in this case, but I can almost guarantee you this is going to be appealed again. Do we want this thing to be in court for another year? That's probably what it will come down to. There are going to be attorneys on both sides, obviously one of the things this body is very concerned about is getting the best bang out of the taxpayers' buck. Do we want to pay the Attorney General's Office for a year of fighting a case they probably can't win? I noticed two weeks back an article which basically said Attorney General Ketterer's overall philosophy is don't appeal any decision you know you can't win. Personally, I happen to like that philosophy. Did he appeal this one? No. Why did he not appeal this one? Probably because he didn't think it was a strong case. I don't think this is a good bill.

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

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House: I beg to differ with the speaker last. First, when we talk about the division of constitutional powers, what the courts do, what the legislature does, clearly, when a legislature enacts a law they have every right to do that. Clearly, it is up to the courts to interpret that law. In this case, the Legislature enacted a law with the intent of preventing gambling in the State of Maine. The courts looked at the law, and because of the way it was worded, determined that in this particular case that didn't happen. Justice Cole

said, and I quote, at the end of his judgment, "The State acknowledged that as a result of some concerns of the court about the possible ramifications of my decision in this case, that the Legislature might want to clarify the definition of game of chance and game of skill." He even goes on to mention that L.D. 1303 was considered in this last session of the Legislature but was not enacted into law. Additionally, I might remind you folks that there are many precedents where the court makes a decision and then the Legislature, during the next session, turns around and rewrites the law to correct it. I have just two examples right here that happened during this session of the 117th. There was an act concerning the offset of Workers' Compensation. It was sponsored by Representative Hatch. Because of a court decision that overruled what the legislative intent was, we went ahead in this session and rewrote the law. We also did it on another bill to determine when a sentence is in excess of 20 years, it may be imposed for a Class A crime. The Legislature did the same thing in the case of the previous example that I gave where they rewrote the law so that the intent of the Legislature was clearly understood in the law. So, I don't think there is any argument at all that we can stand here and say that just because the court has interpreted a law that was on the books, we don't have any right at all as a Legislature to rewrite that law so that the intent of the Legislature is clearly understood. Thank you.

Representative NADEAU of Saco requested a division on passage to be enacted.

Representative JACQUES of Waterville requested a roll call on passage to be enacted.

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

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

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

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House: This is a good bill, a very badly needed bill. We passed it by a vote of 106 to nothing a short time ago. I hope you will stick to your vote.

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

Representative TRUE: Mr. Speaker, Men and Women of the House: I will be very short. I would like to remind all of you people that took history, and that is that we have a balance of power. Each one certainly can challenge one or the other, or those that we need, to try to get justice done. Thank you.

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

ROLL CALL NO. 359

YEA - Adams, Ahearne, Aikman, Ault, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Buck, Bunker, Cameron, Carleton, Carr, Chartrand, Chase, Chick, Chizmar, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, DiPietro, Donnelly, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gooley, Gould, Green, Greenlaw,

Guerrette, Hartnett, Heeschen, Hichborn, Jacques, Jones, K.; Jones, S.; Joseph, Joy, Joyce, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemaire, Lemke, Libby JD; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nass, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Poirier, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Richard, Ricker, Robichaud, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stedman, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tufts, Tuttle, Tyler, Underwood, Vigue, Volenik, Waterhouse, Watson, Wheeler, Whitcomb, Winglass, Winn, Winsor.

NAY - Dore, Gerry, Nadeau, Richardson.

ABSENT - Barth, Birney, Campbell, Clark, Dexter, Dunn, Farnum, Hatch, Heino, Johnson, Joyner, Keane, Lemont, Libby JL; Luther, Martin, Nickerson, Pinkham, Plowman, Truman, The Speaker.

Yes, 126; No, 4; Absent, 21; Excused, 0.

126 having voted in the affirmative and 4 voted in the negative, with 21 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

The Speaker resumed the Chair.

The House was called to order by the Speaker.

ENACTORS Emergency Measure

An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997 (H.P. 1280) (L.D. 1759) (Governor's Bill) (H. "A" H-900 to C. "A" H-892)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of the same and 8 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

SENATE PAPERS Divided Report

Majority Report of the Committee on Education and Cultural Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-549) on Bill "An Act to Initiate Education Reform in Maine" (S.P. 701) (L.D. 1791) (Governor's Bill)

Signed:

Senators:

SMALL of Sagadahoc
ESTY of Cumberland
ABROMSON of Cumberland
AULT of Wayne
BARTH of Bethel
DESMOND of Mapleton
STEVENS of Orono

Representatives:

BRENNAN of Portland
MARTIN of Eagle Lake
CLOUTIER of South

Portland

McELROY of Unity

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (S-550) on same Bill.

Signed:

Representatives:

LIBBY of Buxton

WINN of Glenburn

Came for 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-549)

Was read.

Representative AULT of Wayne moved that the House accept the Majority "Ought to Pass" as amended by Committee Amendment "A" (S-549) Report.

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

Representative AULT: Mr. Speaker, Men and Women of the House: L.D. 1791, Committee Amendment "A," is the end result of many hours of work by the Education Committee to take the legitimate concerns heard at the public hearing and incorporate those changes into the Learning Results Bill. I will attempt to outline what the bill does, and later, what it does not do. L.D. 1791 adopts six guiding principles that determine what a student should know upon graduation from high school. The bill was amended to remove the content standards from the original bill and require the State Board, the Department of Education and the representatives of the Education Committee to hold public hearings throughout the State to develop new content standards and performance indicators. Every school district, PTA, and School Board will be invited to contribute to the new standards. Public hearings will be held in at least eight regions of the State to seek input from local school boards, teachers, business leaders, citizens and, most importantly, parents. After the content standards and indicators have gone through rulemaking and have their public comment, it will be brought back to the 118th Legislature for approval by the Education Committee and debated by the Legislature. You, or your successor, will have the final say on the content standards and the performance indicators.

The eight content standards categories are: English and Language Arts; Mathematics; Science and Technology; Social Studies; Health and Physical Education; Visual and Performing Arts; Foreign Language; and Career Preparation. Because not all schools have existing programs in performing arts, foreign language and career preparation, there is language which delays implementation of the three content areas if adoption of the standards would result in increased local costs. Because the Committee was adamant that no part of this bill be an unfunded mandate, we have required the Department to review and make recommendations to the Education Committee and provide assistance plans for implementing learning results in areas of career prep, language, and visual and performing arts. If the Department cannot provide plans to implement these content areas at no local cost the Department must assess the local cost and provide state dollars if the programs are required to be implemented. There is no unfunded mandate.

The original bill held sanctions for school districts who did not comply with the Learning Results. The Committee Amendment removes those sanctions and replaces them with an assistance plan. Under the amended bill if a school district experiences difficulty the department will provide intensive assistance to these school districts. The bill has changed the department's response of noncompliance from punishment to assistance. If we pass this legislation today, and truly raise our expectations of our teachers and our students, we will need to assist teachers to meet the new higher standards. Already our colleges are incorporating the Learning Results in their Teacher Preparation Degree program. We will have no difficulty assuring our new teachers can teach to the highest standards, but what about the existing teacher workforce? L.D. 1791 includes 2 million dollars for professional development to promote the Learning Results. Teachers will be encouraged, through grants to the local districts, to work collaboratively to bring in model programs and successful teaching practices that can help students attain the Learning Results.

It's interesting that BIW spends millions of dollars annually to retrain its workforce, and we are asking for only \$2 million to assist our teachers to become better at their profession. Setting high standards requires an assessment to gauge how successful the students are at achieving the Learning Results. Beginning in 98-99 the fourth and eighth grade MEA test will be redesigned to measure a student's progress reaching the Learning Results. The eleventh grade MEA will measure achievement of the Learning Results beginning in the 1999-2000 school year. There will also be locally devised assessments to measure achievement, including portfolios, performances, demonstrations, and other records of achievement. Local sites may test at various grade levels to monitor a student's progress and direct increased assistance to those students falling behind.

We did not tie completion of the Learning Results to receipt of a diploma, or as a condition of graduation. The local school districts will continue to set their own graduation requirements. We did ask the State Board to come back with a recommendation to the Legislature on the linkage of the Learning Results to completion of high school. This will allow the public to have further debate and input before any final policy is adopted by the Legislature. So, what does this bill really do? It sets up a process for high academics to be agreed upon by local communities. It provides the assessment strategies for schools to determine if their students are achieving the standards, and it provides the additional dollars to help teachers become proficient in teaching the Learning Results. It restores high academic expectations of our schools, our teachers, and our students.

What this bill does not do is perhaps equally important to many legislators. It does not harm special needs students. Learning disabled and special education children will retain the same protections in this bill as they have under present state and federal statutes. But, I never want a label of learning disability to prevent a child from receiving help in reaching the very highest potential that child is capable of achieving. This bill does not undermine local control. The State currently prescribes a minimum of courses a student must take

to graduate. This simply asks for accountability that the students have actually learned something while they sat in class. The three content areas that may not already be part of a school's curriculum are not required if there is an increase in local cost. Again, there is no unfunded mandate. This bill also makes a special accommodation for parents who have deeply held religious beliefs. Currently, many school districts make accommodations for students if a parent finds some class material objectionable for religious reasons, but it is not standardized and it is not State policy. Language in the Majority Report will provide all parents with this right. Finally, this bill applies only to public schools and private schools approved for tuition purposes. Home schooled children and private schools are exempted from this legislation.

Before I sit down I want to take a moment to thank all the people who have worked so hard on this legislation. The original task force has spent hundreds of hours, the many teachers, school board members, and parents who worked on the guiding principles and content standards, the business leaders who devoted time and energy to working on and seeking support for the Learning Results, the State Board and the Department of Education for being flexible and working with the Education Committee to accommodate our changes and concerns. Finally, I would like to thank the Education Committee members, and our analyst, Mike Higgins, for the weeks that we have spent deliberating this issue. The signers of the Majority Report are not only from both parties, but we represent former as well as practicing teachers, a former Superintendent, an active school board member, college professor, college student, and a college admissions director, businessman, and, I think, most importantly, we represent parents of school age children. The bottom line of all of our deliberations was always how can we raise the academic standards for our children, and then how do we help them to succeed? We believe in L.D. 1791 and we believe that L.D. 1791 is the first step. I urge you to support the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Mapleton, Representative Desmond.

Representative DESMOND: Mr. Speaker, Colleagues of the House: When the Learning Results plan first crossed our desks in Committee I was very cautious. I didn't feel I could give my approval for this new plan for education. I don't believe in rushing ahead without being fully knowledgeable about the mission, or when I have reservations about the work. I felt it was much too encompassing and we didn't have time in this legislative session to get to know the full scope of requirements in order to make any informed decisions. Everyone commiserates that education is not what it should be, and that changes need to be made, but we are reluctant to allow any changes. I was concerned about the impact of dropping the Carnegie Unit system that is used to determine graduation eligibility in favor of an assessment-type exit exam. I also felt it would be difficult to enforce sanctions if the schools did not carry out the mandates. Mr. Speaker and fellow Legislators, the Education Committee has done what we had to do. This amended version of Learning Results is an essential and realistic beginning of the renewal that people say they want, and I feel that we need. In 1993 the 116th Maine Legislature gave the State Board of Education the responsibility of setting goals for

education in Maine. From this the Task Force on Learning Results was established. Recommendations made by the Task Force are found in L.D. 1791, An Act to Initiate Reform in Maine. Fellow Legislators, the Task Force worked diligently for three years to put together a plan for educating all students from grades kindergarten through high school. They should be commended for this great effort. There are three major components on the plan; guiding principles, content standards, and performance indicators. Six areas of knowledge and skills, called guiding principles, describe what an educated person should know. Knowledge and skills developed in the subject areas of career preparation, English, language arts, math, science, social studies and visual and performing arts lead to the achievement of the guiding principles. The results in each area are called content standards. Performance indicators are standards used to identify what students need to know and be able to do in order to achieve the Learning Results.

Concerns have been raised about assessments, money, mandates, sanctions, cumulative records, local control, graduation requirements, foreign language, and as many others as there are people who ask them. Much misinformation has been printed in the newspapers. Even though we know we shouldn't believe everything we read in them, it gets discussed and we listen when people purport to know the way it is. Education is an area in which everyone has a stake. We would never tell a banker how to run the bank, that is left to the experts in the field. We would never presume to tell farmers how to farm. They have their own organization in which to network and plan. Unlike the business world, everyone has opinions, suggestions and mandates for education. Everyone has a stake in education and all citizens should be involved. Therefore, the decision making process is slow and arduous in order to do what is best for our most precious treasure, our children. Governor King made some good points about what this bill is not. It is not outcome based education. It is about basic academic subjects, not focused on values. It is not a left-wing plot to take over the schools. It is a conservative reform. This does not come from Washington. It has involved the work and ideas of over 5,000 Maine people. It is not some insider educational fad. It is supported by the business community, as well as educators. It is not an unfunded mandate. This is what most schools are already teaching. I would also say this does not take away local control. There are guiding principles, but local units are not told how to, or what to, teach in order to attain an acceptable level of education for all children. Each local unit must be accountable for seeing that a school is up to par with professional development for teachers to implement the program, and training for administrators to become educational leaders. This is updating and keeping current, not retraining. This doesn't take big money. These are bright people who most willingly want to upgrade their skills through workshops and good teaching materials. Even though the assessment tests are no longer a requirement for graduation, students will still be held accountable through standards decided upon by the local units, as it is done now.

There are times when, in order to make progress, we need to take risks. Education reform calls for risks in order to keep education current in this

technological age. Putting in place this version of the Learning Results leaves us with the least amount of risk but a beginning for change. The most important people in the world are our children. We want them to be treated fairly, whether they are home schooled, in private schools, religious schools, or in public schools. Mr. Speaker and fellow Legislators, whatever decisions we make must be in their best interest. Usually birds fly in flocks, but eagles fly alone. Although eagles are very independent, they have an innate sense of duty and take good care of their young. Let's all be eagles and do what is best for our children and support L.D. 1791. Thank you.

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

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

Representative LEMKE of Westbrook moved that the Bill and all accompanying papers be indefinitely postponed.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: Well, it's finally here, and I must say that I did not expect it tonight. I do want to say, on the record, that both the House Chair of the Education Committee and I were in agreement that this bill should not run tonight, but it is running. One of the reasons that I would have preferred that it run on Monday, and this might strike some people as odd, but I did want the Representative from Eagle Lake to be here. This is an issue he takes very seriously. He is always a very articulate and eloquent spokesman for his position. But, since he isn't here today, or tonight, I would like to share with you some things that John Martin told me the first day I arrived in the State Legislature. I'm sure he told a number of you this, too. That was that when you go on the floor, and you have to vote on a bill, there are two things to keep in mind. The first thing, is it right with your district? If it's right with your district you are okay. Secondly, if you can't understand it, if you can't explain it, then vote against it, because that's the way it is. I'm sure a lot of you have heard John say that.

Ladies and Gentlemen, we should not be voting on this bill this way at the end of a legislative session. We should not be voting on a bill that might affect a generation of students in the form it is in and in the way it has been presented. I say that with all due respect to the work that the Committee has done. It has done yeoman work. The Committee was presented with a task force report which took three years to compile, unraveled within three weeks, and then was forced within a matter of days, even hours, to come up with something on the floor. But, again, in all due respect, Ladies and Gentlemen, if you really believe that you can take this report, this bill, and go into your districts and be able to explain guiding principles and why these guiding principles must be enacted, and every student must adhere to them, if you can explain the standards in this bill, or maybe not in this bill, and if you can explain why you want this to be kicked

back to implementation through rulemaking by the same folks that brought this in, if you can explain that and the small issue of how this is going to be funded, and many other issues which I won't even address, because I'm sure other people will, if you feel comfortable with that then vote for this bill. But, if you feel uncomfortable with that, you should vote against this bill.

Quite frankly, I see this as the equivalent of CarTest. We voted on CarTest at a time when we had many big issues we also had to deal with. We had to deal with it in a matter of hours in here. Maybe that felt good to vote for clean air, but we certainly felt bad afterwards with the results, because we had rushed through a bill without all of the information, without the deliberation necessary. Frankly, I think this is the same type of legislation. Many people have asked, but not a single person that knows me, why can you, as an educator, and I added it up in my family, over 200 years of people being involved in education, from my grandmother who actually rode on horseback to a one-room school, to my parents. I don't know how they did it without mandated Learning Results. They seemed to do it very well, but apparently they weren't doing it right. Frankly, I don't see how you mandate what is the most important thing in the educational process, and that is instilling a desire to learn and instilling the ability to come up with that vital spark. There is no way you standardize that. There is no way you should standardize that. That is my basic problem with this on an educational level.

One point, and then I will close. It has been mentioned that this doesn't have to do with local control. It has everything to do with local control. It is mentioned that religious schools are all exempted. I would like to know if Cony is, I would like to know if John Bapst is, I would like to know if MacCaulley is under this particular bill. It is mentioned that 5,000 people support this bill. No, 5,000 people came to meetings. That doesn't mean 5,000 people supported this bill. Even then, many of those people have called me and said there is nothing in this bill of what we talked about in those meetings. Last night I did something that I did not particularly enjoy doing, but I asked for you to kill a bill that meant a lot to me, a bill involving mental health, an issue which is very important to this state. I felt then that it would not be right to force you to vote on that bill given the level of deliberation it had and the amount of information you had in the closing hours of this session. I felt it was better to move indefinite postponement of that bill and then have the summer and fall to work on, with all groups, and come back with a good mental health bill. Frankly, I think the same thing exactly should be applied to this legislation. If we kill it tonight, that doesn't mean we are going to have no education reform. It means that we will have an opportunity to have good, responsible, effective education reform in the next session. Therefore, I ask you to vote indefinite postponement. Mr. Speaker, I also ask that when the roll is taken, it be taken by the yeas and nays. Thank you.

The same Representative requested a roll call on his motion to indefinitely postpone the Bill and all accompanying papers.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the

expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

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

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

Representative WINN: Mr. Speaker, Ladies and Gentlemen of the House: I do apologize I don't have any words prepared to share with you tonight. I, too, was of the understanding we were going to have a joint caucus when we could discuss this informally and then bring it to the floor on Monday. So, I apologize for not being prepared. A few minutes ago I was speaking with someone and the thought "me think thou doth protest too much" came to mind. Earlier today a reporter asked me why it was that she couldn't find anybody in the Senate who had voted for this bill on Learning Results that actually supported the bill on Learning Results. She had canvassed all 24 Senators and she couldn't find anybody that really liked the bill. The people voted for the bill because they justified it by saying that it was one step in the right direction and that we needed to send a signal that they were in support of a vast improving of academic standards. I don't know anybody that cares more than I do about improving academic standards. My youngest daughter, that you can all see here on the floor, is having seven cooperation days this year at school, playing Capture the Flag in the woods, building Legos. If I could do anything humanly possible to cut that down to even six cooperation days I would do that. In the meantime, of course, her mathematical skills haven't increased at all in the past year. My response to the reporter as she asked several times as to how on earth can this be happening, how can legislators be making decisions that are supposedly going to reform education when it's clear that in the majority draft there is nothing that would actually occur, that would actually guarantee an improvement in the academic standards in this state? I said, Well, this is a strange place. Perhaps I could give you a story that might help explain what is going on. I said I remember, last February, a few weeks ago, I was at the Senator Inn for a kick-off on Learning Results. It was paid for by UNUM and the Chamber of Commerce and other big money interests. The Governor, the executive branch, excuse me, introduced the sponsor of the bill and said what an excellent job she was doing getting cosponsors on the bill. Then he said that she was, and this is a quote, "She was to keep track of anyone who gave her a hard time," and he was, "going to send Susan Bell after them to straighten them out." Then he told everybody in the room to work very, very hard, lobbying the bill for the next few weeks. Then he promised them a party after the bill was enacted. Some of you may say that was a joke. I say in response, if, indeed, it was a joke, it must have been a Freudian slip. Your brain doesn't make up jokes like that unless your brain is thinking along those lines.

So, when you all go home Tuesday and you wonder what happened and how come, and you are trying to look for some logic somewhere and you are trying to justify it, and you are trying to hope in your heart that somehow this bill will make a difference, just remember that sometimes I guess there is no logic to

this place. What I did want to share with you, and the reason why I have been asking for some six weeks now for a joint conference, a joint caucus, was to share some information with you. So, I am going to take the opportunity anyway. A lot of you have been asking, or hearing and asking, about something called the Virginia Plan. I wanted to make it available. I thought I could leave it on the Clerk's desk for those of you who haven't had a chance to see it yet. I'm going to leave a roll call slip there, too, and any of you that would like to have a copy of it, please check your name off, because what my hope is is that more and more of you might see it and look at it. If you think it has some merit and you know a superintendent or a school board back home that might be interested in looking at something that really does have some redeeming value, and really could help improve academic standards in this State, you might bring it back home. This model from Virginia is something that I found about two weeks ago. To the best of my recollection, and the questions that I asked, is that it was never really seriously looked at by the task force that came up with this yellow report. I know it was never seriously looked at by my Committee. It has an awful lot to offer. Virginia was in GOALS 2000 and they pulled out. They developed their own set of standards. It focuses on the four academic content areas of language arts, science, math and social studies. Nothing more, nothing less. It spells it out in black and white, meat and potatoes, for kindergarten through 12th grade. I'm not saying it's perfect, but it's what most people have been looking for. There is also another document for anybody who is really seriously interested in this issue. It's called "Making Standards Matter" and it was compiled by the American Federation of Teachers. Al Shanker, and his group, investigated what all 50 states were doing regarding learning standards. They defined criteria on how to measure a good performance indicator. This also I can make available to anybody that really does want to do some research on it. The most important part of this document is Appendix B, where it describes the different criteria that should be considered when you develop a good performance indicator. So, I will leave these back on the table in the Clerk's Office. Anybody that thinks they might know anybody that could put these to use, please spread the word. If we each took one home and we each found one superintendent to share it with, we could cover the whole state.

I wanted, most of all, to share that with you, and then to also explain that the alternative proposal that Representative Libby and I have been suggesting to you basically would have turned this issue into a resolve, eliminated the guiding principles, sent this model and this model back to the local level for their review, and also have provided them with a list of criteria on how to develop a good performance indicator and the criteria all came from this book. Then the local level would look at what they are currently doing and what they are not doing, and why and why not, and how much it would cost, and then they would send their responses back to the Department. The department would use the same criterias listed here and the Department would compile it and bring it, through the commissioner, back to the committee. So, the primary difference is that we would have provided two examples that would have gone immediately to the local level, and it

would have given them some guidelines and some criterias on how to develop their models. One of the major problems that I have with the Majority Report is that it keeps the fluff, it eliminated anything that had any meaning.

THE SPEAKER PRO TEM: Would the Representative defer for a moment. The pending question is Indefinite Postponement. We should focus our remarks on that as much as possible.

Representative WINN: Okay. Thank you. The reason why I am going to vote for this pending motion, while I regret having to vote against the initiative, the reason why I am voting for this and why I encourage you to do so is that the existing material that we have took about three years to compile and about 3 million dollars for this document. The existing legislation would send this document back to the same bureaucrats that wrote it in the first place. Basically, it would be sending it back to the Board of Education and the Department of Education and the other academic members and have them work on this again. The problem is that they have told us, they told me as recently as today, that they have no intention of changing it. They think it is perfect the way it is. They think they had enough input from consumers, enough input from parents. I know that isn't true. There were many, many, many people who were locked out of it. Many times it was nothing more than a dog and pony show, in my opinion. So, I am supporting this motion because I don't see any reason to send this back to the same bureaucrats who had three years and 3 million dollars and gave me something that is very, very inadequate.

Yesterday afternoon I spoke with the author of this report. He has compared it against the criteria and what the other states in the nation have done, and he said that our science performance indicators are better than many states. We are still not nearly as good as the Virginia State and that the other content areas of language arts, science and math, excuse me, science is above average, the other content areas of language arts, math and social studies are very inferior. Okay? I have a real problem sending the same thing back to the same characters with no criteria, no guidelines, and no guarantee that we are going to have anymore public input than we already had. In conclusion, I just want you to know how much I regret the situation that we are in, and anything that I can do to help you bring this back to the local level, and anything that I can try to do to help rectify the situation so my daughter doesn't have seven cooperation days next year, I would really love to do. Thank you very much for your time.

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

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will vote against the indefinite postponement of L.D. 1791. I think you all know that education is my number one priority. I think it should be the state's number one priority. Each year in the State of Maine we spend well over 1 billion dollars, raised through local property taxes, through the state with GPA, teacher retirement, debt service for school buildings, and with federal money. Over 1 billion dollars a year, and we are not sure, after spending all that money, what we are getting for it. Learning Results is a step in that direction, to show to the Maine people who are paying for the public school

system in this state, that, indeed, our children are learning. Believe me, if a business tried to do it that way, and had no idea of what their final product was, or how good it was, I don't think they would be in business very long. It has been said that this was not explained to people back home. I, for one, spoke to a vocational regional board, which included board members from three S.A.D.s about Learning Results. I also spoke to all of the elementary teachers in S.A.D. 44. Both groups were quite excited about Learning Results, and eager to get on with it because they knew that already they were moving in that direction. It has been said that this is outcome based education. I'm a little perplexed because I'm not sure what is outcome based education? I was a teacher for 28 years, in public and private school systems in two different countries. For 28 years I always taught outcome based education. There were certain outcomes I wanted my students to produce, to learn. That was outcome based education. I still teach outcome based education, along with Representative Winsor, we both volunteer for the Maine Handicapped Ski Program. We teach people of all ages, with all kinds of disabilities, and we teach them to ski, and they do ski, and they love doing it - outcome based education. Two weeks ago I had a young lady here, a senior at Telstar High School in Bethel, who was shadowing me for the week during career week, a product of outcome based education. She took the SAT exam and her outcome was such that she qualified to be a National Merit Scholarship finalist, and was accepted early decision to Princeton University to study engineering - outcome based education. I say the status quo is not good enough. We have to move forward and I see L.D. 1791 moving us in that direction.

Some people have talked to me, and they're confused about this and they say, "Well, we didn't have this back when I went to school," or, "back when Joshua Chamberlain went to school he didn't need Learning Results." Well, Ladies and Gentlemen, if you haven't been in the schools today, they are quite a bit different than they were a generation, two generations, ago. That's for sure. We have asked our schools continuously every time a problem in society has been perceived and or identified, we have asked the schools to fix it. So, we put more and more things into the schools without lengthening the school year, nor the school day. That means only one thing, it leaves less time for teaching of academics. Having clear, measurable standards, which will come will help to rectify that situation. It was mentioned, what about the Catherine MacCaulley School? I think if Catherine MacCaulley is a private school approved for tuition purposes, just like Gould Academy in Bethel, Fryeburg Academy in Fryeburg, already those schools have to abide by state law, and they do so willingly and, yes, they will be expected to meet the learning standards. But, if any of you have ever taught in a private school, they will have no problem doing this. It's been mentioned that rulemaking is going to be bad. Unfortunately, there was a handout as to how that rulemaking is going to work, and I think if you see that and read it, you will find that you will be very happy with it in terms of how it's going to work. The legislative review of it, and, in fact, through rulemaking there will be more citizen input, certainly much more than

just passing a bill here in this chamber and the other chamber of the Legislature.

One last point, it has been mentioned in some of the literature that has come across your desks that this is job training for specific jobs. Well, if you think that, please talk to John Fitzsimmons, the President of the Technical College System. You would think if anybody is in that kind of business it would be the technical colleges. He told me, and he will tell you, there is nothing further from the truth. They do not teach for specific jobs. They teach and they educate as we want all of our children to be educated, so that they can survive in the world, become, if they wish, productive workers, productive artists, productive scientists, productive citizens, even productive politicians. So, I would urge you to vote against the indefinite postponement so we can go ahead and accept the Majority Committee Report. Thank you.

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

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

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

Representative MURPHY: Is there anyone who is on the Appropriations Committee who could answer, or the Education Committee, either one, what is the fiscal note on this bill? If we pass it, where is the money coming from? Does anyone have that answer?

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 Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House: Representative Murphy, the fiscal note is 1.2 million dollars. This is not in the supplemental budget. We took it out. There are almost 45 bills that are on the Unassigned Table. Many of them have fiscal notes. We do not have enough money to fund this along with the many other items. We only have, I believe, 1.5 million dollars in unappropriated surplus. So, I do not know where the money will be coming from to fund this.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: I just want to briefly say a couple of things. First of all, the original bill, I guess what troubled me in Committee, was that the original bill was a mandate. We have discovered a new way to avoid mandates, put it to rulemaking. I guess that really, really troubles me that we did that, because now you don't have to vote on this bill as a mandate. We might just as well tell all the committees that we can do this, because it's just another shifty way to get something through. I disagree with that kind of an approach. I just want to make sure everybody knew that. The other thing I want to make sure everybody knew was that if you don't vote to indefinitely postpone this, which I won't be, I'll be voting against this motion, then I will go on also to vote on other options and those options include a Minority Report that I think is very fair. So, I hope you will consider that. 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: I, too, suggest that you vote against indefinite postponement. I would like to indicate to you what Learning Results are, for those of you who have not read from the yellow book. The Learning Results are the knowledge and skills which are essential for all Maine students so that they will be prepared for work, higher education and citizenship. These knowledge and skills build on the traditional basic skills, which everyone remembers from his or her own school days. Maine's Learning Results go beyond these basic skills and apply to all students, regardless of their future plans. The Learning Results are essential for all Maine students because the demands of contemporary life and work require us to know and be able to do a great deal. These demands ask us to be clear and effective communicators, self-directed and life-long learners, creative and practical problem solvers, responsible and involved citizens, collaborative and quality workers, integrative and informed thinkers. The six areas of knowledge and skills are called the guiding principles. The Learning Results do not represent everything that is possible for students to know and be able to do by the time they leave school, only those things which are essential for all students. Learning Results have also been developed in each of these subject areas: career preparation, English and language arts, foreign language, health and physical education, mathematics, science, social studies, and visual and performing arts. The knowledge and skills in each of these areas lead directly to the achievement of the guiding principles. Results in each area are called content standards. In order to achieve the Learning Results, students will need to work toward them from the first year in school. Teachers, parents, schools, school districts and communities will need to find common sense ways to make sure that the students don't get left behind during these early years, and that they know how each student is doing as the years pass.

Then we go on and we learn how the Learning Results were developed. We also learn why they are important. I could continue on and read until seven o'clock, but I am going to give way because if I don't my voice is going to give out. I am going to hope that we will immediately move to vote against indefinite postponement. Thank you.

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

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

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

Representative TRUE: I would like to pose a question to the Representative from Old Orchard in reference to the answer which he gave concerning the monies on the fiscal note of this bill. As I read the amendment, 2 million dollars is appropriated only for professional development. Unless I am wrong, professional development has to do with the teaching of teachers and staff to implement what is within the printed page. Therefore, I do not see how that particular figure would be a proper fiscal note for this particular L.D.

The SPEAKER PRO TEM: The Representative from Fryeburg, Representative True has posed a question through the Chair to anyone who may care to respond. The Chair would remind the Representative that the Representative from Old Orchard Beach does not

prepare the fiscal notes. He may respond to the question, however, if he wishes to. The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House: That is correct. I do not prepare the fiscal notes. That is prepared by non-partisan staff. Thank you.

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

Representative TAYLOR: Mr. Speaker, Men and Women of the House: I urge you to defeat the pending motion to table indefinitely, and go on to support the "Ought to Pass" motion for this bill to bring better accountability to our public education system. In its present form, the bill will be an excellent start toward improving the accountability of our schools for the millions of dollars that we spend on education. Like it or not, when our young people leave high school, and go to some sort of advanced education, or enter the working world, they are measured. They are evaluated. They are rated objectively and subjectively. By voting against this bill you cannot prevent the implementation of performance based standards. If this is going to happen when our young students enter the real world, why should we be afraid to measure them before they graduate? To me, that seems to be the only fair thing to do for them. It also seems to be the only responsible way to hold our educational professionals accountable for the performance of educating our young people. This bill is not perfect, but it's the basis for a good start. Nothing is more important than the foundation for a productive life that comes from a good education. This bill will ensure that we provide this foundation for our young people. Please vote "no" on the pending motion. Thank you.

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

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: The hour is getting late. I know that all of you, like myself, would like to be leaving here. Unless somebody has got something real new that they can give us, I don't want to stifle anybody's debating, but if there is something new I would be more than happy to listen to it. If not, sir, I would like to move on, if we could, Mr. Speaker. Thank you very much.

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

Representative RICHARD: Mr. Speaker, Men and Women of the House: I do have something that is new. Many of you have referred to the old days and when you didn't need this and you didn't need that. I would like to say that we in this body, and the other body, could pass a law that says that every home that has children must have a loving mother and father. We would not need to pass any bills on education. I urge you not to support this motion. Thank you.

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

Representative PERKINS: Mr. Speaker, Colleagues of the House: I would like to commend the Committee for all the hard work and well-meaning effort, there is no question on that. The trouble with education, it's not like health. You think health issues are big, there is no comparison, because at least we know what a healthy person is, nobody would dispute that.

Very few people agree on what an educated person is. I was teaching in a high school, teaching science once, and I had some kids that I was told they couldn't learn anything. Those three will sit in the back and just be trouble. They won't learn anything. One day they were walking by and, sure enough, they weren't right up on all the things that some of us were trying to do, but I heard one of them say to his buddy, "What are you going to do this afternoon?" "Well, I'm going home and rebuild the old man's tranny." At that time I didn't even know where to find a tranny, let alone rebuild it, and here were these kids, obviously they had skills that didn't fit into the pattern of what we teachers thought were educated people. These were uneducable even, we were told. They were falling through the cracks of the system then. My feeling is, if we build even more structure into this, even more of these types of kids are going to fall through the cracks. They are not even going to be recognized here. Just look at some of the language here that we are talking about, this soft language, translating into law, under these so-called guiding principles, "Knows the structure and function of the labor market"; "Assesses individual interests, aptitudes, skills, and values in relation to demands of the workplace." What is the workplace? I have done everything from shovel out homemade septic to fishing on fishing boats off the Pacific coast. We have all done all kinds of things. What is the workplace and what does that imply? That there is some workplace that we are going to bring into the systematic way of looking at? Under this also, "Demonstrates reliability, flexibility and concern for quality in work." Flexibility in work, along with quality, what on earth does this mean? What's this going to translate into? I heard the press conference and talked with people supporting this, talked about these being guiding principles. You ask why don't we just send them out if they are just guidelines? I guess the Minority Report will do that. Why don't we send them out? Some places are already doing this. Then, why don't we encourage the other people to do this, the other superintendents, the other districts? A lot of them won't do it. I ask you to name some of these people that won't do it, put some names on these people that won't do it, put some names on the people in your towns that won't do it, on the school board and so forth. I want to hear some names of some of these people that will not follow these guidelines. When we use the word "must" and the word "guideline" at the same time, this is Orwellian and basically gives me the shivers. I urge the indefinite postponement.

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: I would urge you to vote with the prevailing motion. I, too, have some serious problems with this bill and although many people have spoken to me about the ideals they see will be met by having this bill passed. The words in the bill, as Representative Perkins said, just don't match some of what people hope this will achieve. I don't think, also, that it is consistent with the past and present policies for educational resources we have had in Augusta, and throughout the State. We are not giving teachers, and we are not giving schools, the kind of tools that they can hope to achieve these lofty

principles. In addition, I think some of these principles really are reaching into an area of character, that I know many teachers do inform and inspire students with, but it's not done by setting principles and mandating that they be followed. As Representative Richard said, if every home had two loving parents we wouldn't need this bill and I agree with that. I also don't think that by passing this bill we are going to replace that need.

There is a lot wrong with some of what comes out of our schools today, but it's not going to be met by passing this bill. This is trying to address far deeper problems with an easy-sounding solution. Some of the aspects of character, like responsibility and respect for others, and compassion, and humility can be learned through teachers and can be learned at home, but they are not going to be learned by setting this kind of principle and hoping it will be achieved. Just the first line of it even, to me, "The Legislature finds that because all children can learn at significantly higher levels it is essential." I question that statement. Some children may be able to learn at significantly higher levels than they do. Others are learning at significantly high levels now, much higher than others. This bill isn't going to equalize it for everybody else. Some of the most influential thinkers of our time have been mavericks, have been under-performers, haven't fit into the school system. But, somewhere along the way they might have been inspired by one teacher or one person to excel within their own set of criteria, within the skills that they had, and they were encouraged in that. But, it wasn't by setting such a strict system of rules that this tries to impose on teachers, which will actually, I think, inhibit their ability to inspire and motivate students. The fact that some individual school systems in this State have been able to set learning results within their system, and actually implement them, may give us the idea that it can be done throughout the state. I think it can be, but it's not going to be done coming out of Augusta. It can be done by us giving resources to those local systems to develop the right kinds of principles and the right kind of implementation. One example to me in this bill is the principle of having students use English, and at least one other language, before they graduate. But, in the Productivity Task Force, we eliminated the curriculum consultants for foreign languages in this state, and a number of others. I ask you, where is that? Where is the consistency about helping school districts achieve higher results when we are taking away the kind of things that would really help them?

If we want to help them, let's give them some help with curriculum on a local basis and let's put some of the resources there that will let the teachers we have achieve these results. I think the majority of teachers in this State can inspire and motivate students the way we would like to see. They need some help with that. They need to be able to work with smaller class sizes in some cases, with better school buildings, with better teaching resources. That's not going to happen by passing this bill or the 2 million dollars that would go along with it. So, with all those things in mind, I hope you will move indefinite postponement and keep the ideals in mind that you have through the discussions on this bill and try to work, on a step-by-step basis with school districts and with our educational policy to

achieve higher results, but not think it can be done by simply passing this bill. Thank you.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House: I urge you to vote against the pending motion, so that we can go on to adopt the overwhelming Majority Report from the Education Committee. This morning, when I was walking through the parking lot to come here, and I will admit I was a little late getting here, but I went by several bumper stickers on cars which said "Maine - moving forward." I thought to myself that's what Learning Results are and that's what is in this bill. It's Maine and it's moving forward. If we don't move forward with this bill, we will have the status quo. If we have that, that will not be fair to our students. It will not be fair to families. It will not be fair to all the school districts and all the teachers that are currently in Maine. When you cut through all the smoke, all the discussion, all the things that all of us have already handed out, this bill does three things. It sets into motion, through rulemaking, a process to establish content standards and learning indicators. There is not one person in here that does not believe that we should not set high standards for our children, and that we can define what those standards are.

The second thing the bill does is set into motion again a process to retool the MEA, so that we will be able to determine whether or not students are reaching those learning indicators. I have not spoken to one legislator. I have not spoken to one teacher. I have not spoken to one person so far that is opposed to finding out a way of determining whether or not students are learning math, English, geography and history. That's the second part of the bill.

The third part of the bill allocates 2.1 million dollars. Two million dollars of that for staff development so that teachers will have the tools to understand how to identify learning indicators, how to put those in their curriculum, and how to do local assessment, as well as working with the MEA's. I have talked to some people that think that maybe that 2 million dollars is not necessary, but not a whole lot. That type of training for teachers is an excellent down payment to ensure that we will be able to implement this in a timely way.

Why do we want to do this? Because the overwhelming preponderance of research shows that when you set high standards you get high academic performance. Again, almost nobody disagrees with that. Why do I feel strongly about this bill? Why have I felt strongly about it ever since we have been dealing with it in January? My grandmother, when she came to this country when she was 14 years old, she had a seventh grade education. When she was 28 years old my grandfather died, and she was left a widow with four children and a seventh grade education. The only work that she could get in Portland was to hire herself out as a domestic, working for people on the islands in the western part of Portland. But, the one thing that she always held dear to herself was having high expectations for her children. All four of her children graduated from college in the time of the Depression, in the time of war. Three of them graduated from Maine colleges. What she did was hold high expectations and the schools that they went to had high expectations. The combination of her

expectations as a parent, and the schools' expectations allowed my uncles, my aunt, and my father to achieve an education that would have been unheard of otherwise. When I think about that as a parent myself now, the expectations that I hold for my children, and the future that I look for for them, I don't feel there is any other way that I can vote except against this pending motion and for the Learning Standards.

This bill does two things. It simultaneously takes us back to the basics, reading, writing, arithmetic and geography. It also lets us take a step towards the future and to allow our children to have the tools they need to compete in the next century. Thank you.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: The hour is getting late. It is getting towards seven o'clock. I think we all want to vote and we all want to go home, so I would like to summarize in two sentences and hopefully get us back on track. Ladies and gentlemen, what you have before you is an ill-defined plan without money, which would give you education from the top to the bottom. What we should have is education reform from the people up, not from the bureaucrats down. That's why you should vote against this bill by voting for indefinite postponement, so we can have real educational reform that is consistent with Maine's character and Maine's history. It's not a vote for the status quo, but real reform, if you vote for indefinite postponement. Thank you.

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

Representative WINN: Mr. Speaker, Ladies and Gentlemen of the House: I just wanted to respond to the good Representative Brennan's comments. Just to remind you that this whole problem with the Majority Report is that it does not contain high standards. If it contained high standards I would be the first one to support it. But, indeed, the problem is that it is very, very mediocre standards and our children deserve far less. I also want to remind you that the Majority Report does not ensure that the consumers are going to be able to participate in the rulemaking process. In fact, I asked my Committee if we could make a provision to include parents and employers in the process and they looked at me like I was from Mars.

The other issue is that there is no model for this for people to follow. Then again, another significant major issue is that there is no criteria. These people, the bureaucrats, have made it clear that they intend to bring back to you the very same document that you see before you which cost 3 million dollars and three years. As for the 2 million dollars for professional development, I can give you an example of what they do with that money that your constituents work so hard to give in the form of tax dollars. One of my schools, Orono, this fall went to a summit at the Bethel Inn, along with many other schools. It cost \$600 per person. You have to take a whole team from the school with you. My school of Orono spent over \$5,000 to sit around the Bethel Inn and listen to some bureaucrat philosophize about how to improve education. That did nothing for any of the children in my school in Orono. Again, I just urge you to vote for this pending motion, so that we can get serious about

improving the education for the children in this State. Thank you very much.

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

Representative BIGL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to have you vote against the pending motion. Let me tell you why. You heard some words here, and I would like to bring the words up again. Instead of bringing your wallet with you, instead of looking at a school building, instead of thinking about a parent, picture a Maine school child in front of you. That's really what we are talking about. We have all these peripheral things. We have to bring the student, together with the teacher, into an environment that it is going to work. There are three cardinal rules for educations, I don't care where you educate. There are three cardinal rules for education. Tell the students where they are going. That's number one. Number two, tell them where they are right now. Number three, tell them where they have been. Now, let's talk about telling them where they are going. Years ago they used to say you are going on the farm. They told me I was going into a mill. My mother was one of 22 children. They told her she was going to be a babysitter and took her out of school in the sixth grade so she could babysit the rest of the kids at home. Tell them where they are going. Do you want them to go to the farm now? How many towns in Maine still have the milltown concept and the mills aren't even there anymore? We have to tell them where they are going. Tell them where they have been. Tell them where they are right now. As they walk along this road of the expectations that we have for them, we can tell them if they are meeting those expectations. This bill will start us in that direction.

One more word I want to throw in here, and that is the word change. As long as the other guy is changing it's easy to do, but when it comes down to when we have to change, it's a lot tougher to do. Change is tough. At the beginning of the session you all remember the nice evening we had here talking about lobsters and the lobster management plan and all the reasons we had for not doing it. One of the biggest opponents of that lobster plan at that time, this year, just a month or so ago, down at the fishermen's forum got up on the floor and said the plan that we passed, once he got over the change and looked at what was really going to happen he got on board. I think you have to look at this this way. What kind of first steps do we make? This is not carved in stone. It says four first steps. First steps are let's tell the kids where they are going. I would like to have you now defeat the indefinite postponement and let's move on to accepting the Majority Report. Thank you.

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

Representative TRUE: Mr. Speaker, Men and Women of the House: I know it's getting late, and I wasn't even going to get up to say anything, believe it or not. However, how many of you people here in the hall of the House saw the young boy today who was here to enjoy Saturday and had a baseball on the back and had some writing on it? How many of you people saw that young fellow? He did his job in a smiling way and the words, in case you didn't see it, it said, "The game of life - and I'm having a ball." You know, that's what this is all about, just as some

other speakers have said. This has been a game of life for me, and I have had a ball. I have seen so many of these plans coming down, and I have seen so many changes, and I have seen so many promises of what these words are going to do, but, this is the first time in over 40 years that I have spoken, or have planned to vote, against a bill in education. I hope you will give me just time enough for some thoughts.

First, many of the statements you have heard have been made that many schools are already doing what 1791 is asking. I say to you, what in the world do we need 1791 for if we are already saying that we have a good group that has been successful by using these standards? Maybe not written, but have adopted some straightforward ideas in their schools. How many of our schools have been awarded Excellence of Education flags, or whatever they give, and how did they receive it? They received these awards because they were excellent schools. I still can't understand why we can't copy and emulate these schools for our students. I have thought I have had the hair on the back of my neck stand up rather straight the last week a couple of times, when a collection of educators spoke their piece and the media said they don't have vision. I don't believe, collectively, as I remember, 160 years or 170 years, if we hadn't had visions I doubt very much that we would have lasted that long.

Tonight I heard words that we need to be directed. You know, 55 years ago I had a choice. After returning to Maine after serving my country I had a choice, a choice of going to school or a choice of going to study music. My mother wanted me to study music, and I think that was because of the fact that coming from nine children, and in those days it was just impossible for most of them to go on to college, but because the government was good to those who served their country, and I'm sure there are many here that remember, and I decided to go to school because I wanted to do one thing. That was to create the atmosphere for young people in the schools of Maine that I got. My mother said that in my going through life I would have many loves. She was not talking about the sense that maybe some people think. I have had. I am concerned because, as the Representative from Portland caught himself about saying the word "all." Section 1 says "all students." Nobody who has ever had any practical experience in educating young people knows that everybody who comes through the doors, that all of them are going to be able to go by these guiding principles. In page two, line 28, the word is "each." Each to me means every. The word "must," not should, "must," those particular things bother me because of the fact that we have a conglomerate mass of students and they are different. Thank goodness we don't have them cloned. They all have certain abilities and people have said that it's okay. We will take care of all of them. But the people that advocate this say on the one hand "all" and "must," and yet only in the fifth page, at the top, it says that if you can't come up with the money you may delay. You may delay the adoption of the system of the Learning Results. My answer to that is if it is so darn important, why should they be given the opportunity not to have them within their schools? It's a simple thing, money, but it's a simple thing to take care of, and many educators have been trying to get people to do this, and probably lawmakers, and

that is for those towns who don't raise the proper tax effort should not be getting all the help until they reach an average and then make darn sure we have the money to implement the things we are directing them to do almost by a mandate.

I have tried, how many of you people know when the implementation of the special ed came, and we thought that wouldn't cause any problems. What's the major part of your budgets in schools now? Special education. That's why I was asking about the money to be raised, because I think you are going to have to raise some money and where in the world is it coming from? I don't mind, if it's absolutely necessary and the citizenry buy it, let's have the money. But, I have a paper here from a long-time educator who was a principal, an assistant superintendent, I won't give names because sometimes I think it's pretty difficult for some superintendents to say what they really want to say because of the fact they work for someone. All through this he says, and I tend to agree, and that is, "I do not have major objections regarding the intent of the legislation, but I have one major concern, and that is that each time we have something new we have hidden costs." Those of you that belong to the MEA, there is a new magazine this month. You turn to one page, they start talking about money that we need for schools. You go to the next page, in the right-hand column, and you read how successful schools are. I don't understand it. Grade four, how were the test results in grade four last year in mathematics? The best in the nation. I don't call that failure. How about the improvement we have made with the SATs in the last few years. Not bad.

I thank you for your attention. I still haven't made up my mind. I have listened intently. I think people in this hall will say that I have not browbeaten anybody to go my way, or what have you, because that is not the way that I do things. If people have talked to me and asked questions, I have answered them. My good wife tells me I have all sorts of telephone calls at home. I have had some here, and there are a great many citizens who say they don't understand the written part of this L.D. My grandfather used to say, "Slow down young man, so you can smell the roses." I think we ought to slow down. I shall not vote for indefinite postponement because I don't believe in that. We should be able to discuss this intelligently and as a group make the right decision. All I ask you to do is to pause and think about all the things that have been said. I know somebody will get up and say it's not perfect, it never has been. I know that, and I have never seen one perfect, but I think somebody can find one and write one better than this one. Thank you.

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

Representative FARNUM: Mr. Speaker, Men and Women of the House: I have three pages of notes, I am going to throw them away and just say a few things. First of all, I want you to remember the emissions law and how we went all over the state and how thousands of people talked against emissions and we still voted it in. I wanted to hold this off until Monday because I had arrangements made with people at home, administrators, teachers, and ordinary citizens, to talk about this because this bill we have now came out yesterday or today, I'm not sure which. No one knows about it at home, but that's

been killed, too. I did not want to mandate right now to either kill the bill. I wanted everyone to be able to debate it at a good time. That was killed too. I'm not going to tell you how to vote. I'm going to tell you how I am going to vote. I am going to vote to kill it. Thank you.

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

ROLL CALL NO. 360

YEA - Ahearne, Aikman, Bailey, Buck, Cameron, Chartrand, Chick, Chizmar, DiPietro, Donnelly, Dore, Farnum, Gerry, Gould, Guerrette, Hartnett, Jacques, Jones, S.; Joy, Joyce, Joyner, Kerr, Kilkelly, Kneeland, Labrecque, Lane, Layton, Lemke, Look, Lovett, Lumbr, Marshall, Meres, Murphy, Nass, O'Neal, Paul, Perkins, Plowman, Poirier, Reed, W.; Rice, Savage, Spear, Stedman, Stone, Underwood, Vigue, Volenik, Waterhouse, Wheeler, Winglass, Winn.

NAY - Adams, Ault, Barth, Benedikt, Berry, Bigl, Bouffard, Brennan, Carr, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Driscoll, Etnier, Fisher, Fitzpatrick, Gates, Gieringer, Gooley, Green, Greenlaw, Hatch, Heeschen, Hichborn, Jones, K.; Kontos, Lemaire, Libby JD; Lindahl, Madore, Marvin, McElroy, Mitchell EH; Mitchell JE; O'Gara, Ott, Peavey, Poulin, Pouliot, Povich, Reed, G.; Richard, Richardson, Robichaud, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Stevens, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tufts, Tyler, Watson, Winsor.

ABSENT - Birney, Bunker, Campbell, Carleton, Chase, Clark, Dexter, Dunn, Gamache, Heino, Johnson, Joseph, Keane, LaFountain, Lemont, Libby JL; Luther, Martin, Mayo, McAlevy, Morrison, Nadeau, Nickerson, Pendleton, Pinkham, Ricker, Truman, Tuttle, Whitcomb, The Speaker.

Yes, 53; No, 68; Absent, 30; Excused, 0.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

53 having voted in the affirmative and 68 voted in the negative, with 30 being absent, the motion to indefinitely postpone the Bill and all accompanying papers was not accepted.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: Based on the last vote that we just took, it's clear that we are going to have education reform in Maine and one of these two, either the Majority or the Minority Report, will probably pass. I think it's important that you compare the two before you take a vote. The Majority Report puts the entire process to rulemaking. I think the Representative from Glenburn, Representative Winn, described that earlier when she said if you put the report to rulemaking you are going to make it very difficult for teachers and administrators and parents to get involved in the process. If you put it back to the school systems, the school units, and you debate it at the local level, which the Minority Report does, you have the opportunity to get the parents and the teachers involved. There is no way around it. They have to be involved. I think there

is a huge, huge difference between the two bills. Let me explain another point. The Majority Report that we are debating now mandates a top down test. A top down assessment. The MEA will be changed, once again, for the umpteenth time, the MEA will be changed. We just can't afford that. We have to continue to keep the MEA the way it is so it has validity. If you keep changing the MEA you cut its validity down every single time you make a change. The MEA is a very good instrument for comparing schools, and for comparing between schools and across time. So, I think it's crucial that you take a look at the difference between the two reports.

Another thing that the Majority Report does, that the Minority Report does not, the Minority Report doesn't require 2.1 million dollars, but the Majority Report does. We don't have it. We don't have the money. We send it back to the school systems and fund it, it's going to cost you a few thousand dollars to do that. You are going to get input from across the state. You are going to get all of that input sent back to the Department of Education and they will compile it, put it into a report and then you will be voting on a final piece of education reform next year. If you go with the Majority Report it's going to go to rulemaking. They will compile the report, and you will still have the same complaints you have this year, teachers that don't know anything about the Learning Results, principals that are unsure of what's in the document, and so forth.

One more final point and then I will sit down. The Majority Report spells out the guiding principles. The Minority Report does not. If you think those guiding principles are anything more than fluffy, flowery words, I got to disagree with you. The Minority Report doesn't do that. It lets the school systems take another close look at it, come back with guiding principles that make sense and come back with content standards across the grade levels that make sense and they will tell us should it be assessment top down or from bottom up. They will tell us. I think it's a superior report. I have spent a month working on this Minority Report. I have had some help from the good Representative from Glenburn. I just want you to know it is a far superior report and it gives you education reform. I would ask that you vote against the pending motion so we can move on to pass the Minority Report. Thank you very much.

On motion of Representative JACQUES of Waterville, tabled pending acceptance of the Majority **"Ought to Pass"** as amended Report and later today assigned.

Non-Concurrent Matter

Bill "An Act to Prohibit the Photographing or Videotaping of Jury Deliberations" (EMERGENCY) (H.P. 1360) (L.D. 1868) on which the Majority **"Ought to Pass"** as amended Report of the Committee on Judiciary was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-887) in the House on March 30, 1996.

Came from the Senate with the Minority **"Ought Not to Pass"** Report read and accepted in non-concurrence. Representative LIBBY of Buxton moved that the House Adhere.

Representative TREAT of Gardiner moved that the House Recede and Concur.

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

A vote of the House was taken. 11 voted in favor of the same and 96 against, the motion to Recede and Concur did not prevail.

Subsequently, the House voted to Adhere.

CONSENT CALENDAR

First Day

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

(S.P. 712) (L.D. 1812) Bill "An Act to Extend Health Care Coverage for Parents Leaving the Aid to Families with Dependent Children Program" Committee on Human Resources reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-556)

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

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

ENACTORS

Emergency Measure

An Act to Facilitate the Lawful Detention of Juveniles (H.P. 1312) (L.D. 1796) (Governor's Bill) (C. "A" H-776)

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. 101 voted in favor of the same and 12 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Recodify and Revise the Maine Revised Statutes, Title 19 (H.P. 1347) (L.D. 1842) (C. "A" H-897)

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.

SENATE PAPERS

Non-Concurrent Matter

An Act to Clarify Definitions Under the Laws Concerning Games of Chance (S.P. 479) (L.D. 1303) (C. "A" S-517) which was passed to be enacted in the House on March 30, 1996.

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

The House voted to Insist.

ENACTORS

Emergency Measure

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) (H. "A" H-852, H. "B" H-854 and H. "C" H-895 to C. "A" H-847)

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. 103 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 Mandate

An Act to Revise the Salaries of Certain County Officers (H.P. 1379) (L.D. 1887) (S. "A" S-551)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 105 voted in favor of the same and 2 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Implement the Recommendations of the Land and Water Resources Council Regarding Gravel Pits and Rock Quarries (H.P. 1353) (L.D. 1854) (C. "A" H-872)

An Act Regarding the Maine Potato Board (H.P. 1380) (L.D. 1888)

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

An Act to Prohibit Stalking (H.P. 1286) (L.D. 1766) (C. "B" H-829)

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

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

Representative WHEELER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to make my intentions known that I support the stalking bill and would ask for a roll call. Thank you.

Representative WHEELER of Bridgewater requested a roll call on passage to be enacted.

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

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

The pending question before the House is Enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 361

YEA - Adams, Ahearne, Aikman, Ault, Barth, Benedikt, Berry, Bigl, Brennan, Carleton, Carr, Chartrand, Chick, Chizmar, Cloutier, Clukey, Daggett, Damren, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gates, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Guerrette, Hartnett, Hatch, Heeschen, Hichborn, Jacques, Jones, S.; Joy, Joyce, Joyner, Kilkelly, Kneeland, Kontos, Labrecque, Lane, Layton, Lemaire, Libby JD; Lindahl, Look, Lovett, Lumbr, Madore, Marshall, Marvin, Meres, Mitchell EH; Mitchell JE; Murphy, Nass, O'Gara, O'Neal, Ott, Paul, Peavey, Plowman, Poirier, Povich, Reed, G.; Rice, Richard, Robichaud, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stedman, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp,

True, Tufts, Tyler, Volenik, Waterhouse, Watson, Wheeler, Winglass, Winn, Winsor, The Speaker.

NAY - Jones, K..

ABSENT - Bailey, Birney, Bouffard, Buck, Bunker, Cameron, Campbell, Chase, Clark, Cross, Dexter, Donnelly, Dunn, Gamache, Heino, Johnson, Joseph, Keane, Kerr, LaFountain, Lemke, Lemont, Libby JL; Luther, Martin, Mayo, McAlevey, McElroy, Morrison, Nadeau, Nickerson, Pendleton, Perkins, Pinkham, Poulin, Pouliot, Reed, W.; Richardson, Ricker, Truman, Tuttle, Underwood, Vigue, Whitcomb.

Yes, 106; No, 1; Absent, 44; Excused, 0.

106 having voted in the affirmative and 1 voted in the negative, with 44 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

On motion of Representative STROUT of Corinth, the House adjourned at 7:30 p.m., until 9:00 a.m., Monday, April 1, 1996.