

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME VII

SECOND REGULAR SESSION

Senate

March 14, 1996 to April 3, 1996

SECOND CONFIRMATION SESSION

August 1, 1996

SECOND SPECIAL SESSION

House of Representatives

September 5, 1996 to September 7, 1996

Senate

September 5, 1996 to September 7, 1996

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HOUSE AND SENATE LEGISLATIVE SENTIMENTS

ONE HUNDRED AND SEVENTEENTH MAINE LEGISLATURE
SECOND SPECIAL SESSION
1st Legislative Day

Thursday, September 5, 1996

This being the day designated in the proclamation of the Governor for meeting of the One Hundred and Seventeenth Legislature in extra session, the members of the House of Representatives are to assemble in their hall at 10:00 o'clock in the morning and will be called to order by the Speaker.

Prayer by Reverend Calvin O. Dame, Unitarian Universalist Community Church, Augusta.

National Anthem by Amber Michaud, Windsor.

Physician for the day, James E. Eshleman, D.O., Norway.

A roll call was taken. 138 out of 151 members answered to their names and accordingly a quorum was found to be present.

A message was received from the Senate, borne by Senator AMERO of that body, announcing a quorum present and that the Senate was ready to transact any business that might properly come before it.

STATE OF MAINE
PROCLAMATION
(H.C. 432)

WHEREAS, there exists in the State of Maine an extraordinary occasion arising out of the need to address certain forest practices, including clearcutting, in the State of Maine;

WHEREAS, the citizens of Maine will be required to vote at the November 5, 1996 election on a citizen-initiated referendum, "An Act to Promote Forest Rehabilitation and Eliminate Clearcutting," which proposes overly stringent controls that may devastate the forest industry and economy of Maine;

WHEREAS, a conservative analysis of the economic impacts of the provisions of the citizen-initiated referendum indicate that it is likely to result in the loss of over 15,000 jobs, a 4% statewide decline in annual wages and salaries (equivalent to an estimated loss of \$439 million in income), a 17% increase in the price of wood supplied to Maine's paper and lumber manufacturers, and an annual reduction in spruce, fir and hardwood harvests of more than 36% statewide;

WHEREAS, a responsible alternative legislative proposal has been developed that would strengthen restrictions on clearcutting, establish voluntary management audit programs to optimize the ecological and economic health of Maine forests for future generations, provide for ecological forest reserves on State-owned lands and establish the right to practice forestry in the State of Maine;

WHEREAS, this alternative proposal has broad support among landowners and environmental organizations, and would apply to forest practices throughout the State of Maine;

WHEREAS, this proposed legislation must be enacted by the 117th Legislature in order to be referred as a competing measure for consideration by the electors at the upcoming November 5, 1996 election;

NOW THEREFORE, I, ANGUS S. KING, JR., Governor of the State of Maine, by virtue of the constitutional power vested in me as Governor, convene the Legislature of

this State, hereby requesting the Senators and Representatives to assemble in their respective chambers at the Capitol in Augusta on Thursday, September 5, 1996 at 10:00 o'clock in the morning, in order to receive communications, and enact the proposed legislation submitted by the Governor containing these recommendations or substitute legislation that achieves the same objectives.

IN TESTIMONY WHEREOF, I have caused the Great Seal of the State to be hereunto affixed. Given under my hand at Augusta this fourteenth day of August in the Year of our Lord One Thousand Nine Hundred and Ninety Six.

S/Angus S. King, Jr.
Governor

S/G. William Diamond
Secretary of State

Was read and ordered placed on file.

On Motion of Representative JACQUES of Waterville, the following Order: (H.O. 55)

ORDERED, that a Committee of ten be appointed to wait upon His Excellency, the Governor, and inform him that a quorum of the House of Representatives is assembled in the Hall of the House for the consideration of such business as may come before the House.

Was read and passed and the Chair appointed the following Members:

Representative SPEAR of Nobleboro
Representative KILKELLY of Wiscasset
Representative AHEARNE of Madawaska
Representative HICHBORN of Lagrange
Representative TYLER of Windham
Representative STROUT of Corinth
Representative CROSS of Dover-Foxcroft
Representative KNEELAND of Easton
Representative DEXTER of Kingfield
Representative PENDLETON of Scarborough

On Motion of Representative MITCHELL of Vassalboro, the following Order: (H.O. 56)

ORDERED, that a message be conveyed to the Senate that a quorum of the House of Representatives is present for the consideration of such business as may come before the House.

Was read and passed and Representative WHITCOMB of Waldo was appointed to convey the message and subsequently reported that he had delivered the message with which he was charged.

SENATE PAPERS

The following Communication: (H.C. 433)

THE SENATE OF MAINE
State House Station 3
Augusta, Maine 04333

August 1, 1996

The Honorable Dan A. Gwadosky
Speaker of the House
117th Legislature
Augusta, Maine 04333
Dear Speaker Gwadosky:

In accordance with Joint Rule 506, please be advised that the Senate today confirmed the following:

Upon the recommendation of the Joint Standing Committee on Agriculture, Conservation and Forestry:

Theresa S. Hoffman of Newburgh for appointment as

a member of the Land Use Regulation Commission;
 Steven O. Mason of Beaver Cove for reappointment
 as a member of the Land Use Regulation Commission;
 Stephen W. Wight of Bethel for reappointment as a
 member of the Land Use Regulation Commission;
 Upon the recommendation of the Joint Standing
 Committee on Banking and Insurance:
 William N. Lund of Falmouth for appointment as
 Director of the Office of Consumer Credit
 Regulation;
 Upon the recommendation of the Joint Standing
 Committee on Business and Economic Development:
 Perry B. Newman of Shaker Heights, Ohio, for
 appointment as International Trade Director;
 Norma M. Rice of Kittery for reappointment as a
 member of the Maine Real Estate Commission;
 Upon the recommendation of the Joint Standing
 Committee on Education and Cultural Affairs:
 Penny S. Harris of Camden for reappointment as a
 member of the University of Maine Board of
 Trustees;
 James D. Mullen of Bangor for appointment as a
 member of the University of Maine Board of
 Trustees;
 David S. Loeb of Olympic Valley, California, for
 appointment as a member of the Maine Maritime
 Academy Board of Trustees;
 Richard J. Grosh of Brooklin for appointment as a
 member of the Maine Maritime Academy Board of
 Trustees;
 John Duke Albanese of Oakland for appointment as
 Commissioner of the Department of Education;
 Upon the recommendation of the Joint Standing
 Committee on Inland Fisheries and Wildlife:
 Stanley D. Milton of Andover for reappointment as
 a member of the Inland Fisheries and Wildlife
 Advisory Council;
 Lila S. Ware of Skowhegan for appointment as a
 member of the Inland Fisheries and Wildlife
 Advisory Council;
 Urban D. Pierce, Jr. of West Buxton for
 appointment as a member of the Atlantic Salmon
 Authority;
 Gail E. Gould of Calais for appointment as a
 member of the Atlantic Salmon Authority;
 James A. Barresi of Mapleton for appointment as a
 member of the Atlantic Salmon Authority;
 John B. Dimond of Orono for appointment as a
 member of the Atlantic Salmon Authority;
 John S. Banks of Milford for appointment as a
 member of the Atlantic Salmon Authority;
 Cliv Dore of Perry for appointment as a member of
 the Atlantic Salmon Authority;
 William H. Nichols, Jr. of Cumberland Foreside for
 appointment as a member of the Atlantic Salmon
 Authority;
 Upon the recommendation of the Joint Standing
 Committee on Judiciary:
 James MacMichael of Skowhegan for appointment as a
 Judge of the Maine District Court;
 Robert E. Mullen of Winthrop for appointment as a
 Judge of the Maine District Court;
 Upon the recommendation of the Joint Standing
 Committee on Labor:
 Edwin S. Hamm of Old Orchard Beach for appointment
 as a member of the Maine Labor Relations Board;
 Upon the recommendation of the Joint Standing
 Committee on Legal and Veterans Affairs:
 Robert Cooper of Alfred for reappointment as a

member of the State Liquor and Lottery Commission;
 Raquel D. Boehmer of Monhegan Island for
 appointment as a member of the State Liquor and
 Lottery Commission;
 Upon the recommendation of the Joint Standing
 Committee on State and Local Government:
 Derek P. Langhauser of Falmouth for reappointment
 as a member of the Maine Court Facilities
 Authority, and
 Peter G. Cary of Cape Elizabeth for appointment as
 a member of the Maine Court Facilities Authority.

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

Was read and ordered placed on file.

COMMUNICATIONS

The following Communication: (H.C. 434)
 STATE OF MAINE
 SUPREME JUDICIAL COURT
 AUGUSTA, MAINE 04330
 April 3, 1996

Hon. Dan A. Gwadosky
 Speaker of the House
 State House - Room 301
 Augusta, Maine 04333

Dear Mr. Speaker:

It is my pleasure to transmit the enclosed Opinion
 of the Justices with reference to the Questions
 Propounded in a communication dated March 25, 1996.

Sincerely yours,
 S/Daniel E. Wathen
 Chief Justice

OPINION OF THE JUSTICES OF THE SUPREME JUDICIAL COURT GIVEN UNDER THE PROVISIONS OF SECTION 3 OF ARTICLE VI OF THE CONSTITUTION Docket No. OJ-96-2

QUESTIONS PROPOUNDED BY THE HOUSE OF REPRESENTATIVES
 IN A COMMUNICATION DATED MARCH 25, 1996
 ANSWERED APRIL 3, 1996

OPINION OF THE JUSTICES of the Supreme Judicial Court Given Under the Provisions of Section 3 of Article VI of the Constitution.

To the Honorable House of Representatives of the
 State of Maine:

In compliance with the provisions of section 3 of
 article VI of the Constitution of Maine, we, the
 undersigned Justices of the Supreme Judicial Court,
 have the honor to submit the following responses to
 the questions propounded by the House of
 Representatives on March 25, 1996.

We begin with a reminder that the opinions
 propounded pursuant to section 3, article VI of the
 Constitution of Maine are not binding decisions of
 the Supreme Judicial Court. They are the opinions of
 the individual Justices, rendered within a tight time
 schedule and without the benefit of full factual
 development, oral argument, or full briefing by all
 interested parties. In the present case, the opinion
 is requested in the waning days of the legislative
 session, and extensive study and analysis is not
 possible. The presented questions are complex and

probe to the very heart of our state and federal forms of government. Notwithstanding these limitations, we offer the following advice in furtherance of our constitutional obligation.

Question 1 asks, "If initiated bill 6 becomes law, would section 2 of the bill violate the constitutional principle that one Legislature may not bind future Legislatures?" As noted by the Attorney General in his brief to the Justices, the question really asks, "If this bill becomes law and subsequent Legislatures do not follow it, will the law be enforceable by the courts?" The answer to this question is clearly in the negative. This bill, if enacted, will be on equal footing with every other law passed by the Legislature: subsequent sessions of the Legislature may choose to follow it, or they may choose to repeal it, either expressly or by implication. See Manigault v. Springs, 199 U.S. 473, 487 (1905) (bill requiring Legislature to give direct notice to all interested parties and to publish the notice in a major newspaper, prior to the granting of a private right or privilege by special bill, could be "repealed, amended, or disregarded by the legislature" and was "not binding upon any subsequent legislature."), cited by Sierra Club v. Froehlke, 816 F.2d 205, 215 (5th Cir. 1987) ("courts cannot set aside legislation because it is inconsistent with prior legislation"), cited also in Peterson v. United States Department of the Interior, 899 F.2d 799, 808 (9th Cir. 1990) (upholding Congressional alteration of a previously enacted government contract, recognizing "the fundamental principle that Congress always has the power to amend, repeal or ignore legislation passed by earlier congresses"). To read this statute as binding upon future Legislatures is to read it as an attempt to amend the Constitution of the State of Maine through improper means. Such a bill would not be enforced by the courts against future Legislatures.

We now address Question Two, which asks:

Is it within the constitutional authority of the Legislature of the State of Maine, or the electors of the State of Maine by means of the initiated legislation, to direct the members of the State's congressional delegation, the Governor or members of the Maine Senate or Maine House of Representatives to use their powers to make application to the Congress of the United States for a Constitutional Convention, as proposed in sections 2, 3 and 4 of Initiated Bill 6?

The question actually poses six different issues of law: 1) may the Legislature direct the activities of the congressional delegation in this manner; 2) may the electors direct the activities of the congressional delegation in this manner; 3) may the Legislature direct the activities of the Governor in this manner; 4) may the electors direct the activities of the Governor in this manner; 5) may the Legislature direct the activities of the Legislature in this manner; and 6) may the electors direct the activities of the Legislature in this manner?

¹We have previously opined that questions posed by the Legislature regarding the constitutionality of a proposed initiative present us with "important questions of law, . . . upon [a] solemn occasion[]" and we will therefore address the merits of the Legislature's questions. Me. Const. art. VI, §3 (1985). See, Opinion of the Justices, 623 A.2d 1258 (Me. 1993).

Issues one and two of Question Two are clearly answered in the negative. Although they may certainly petition or urge, neither the electors of the State of Maine nor the Legislature of the State of Maine may control the state's delegates to the United States Congress in the performance of their congressional duties. Such an exercise of control would violate the essence of federalism. Congressional delegates, although elected by the states and commonly viewed as representatives of the interests of their home states, act on behalf of the entire nation. The United States Supreme Court recently held as unconstitutional a state's attempt to directly limit the term limits of its own congressional delegates, stating:

In [our] National Government, representatives owe primary allegiance not to the people of a State, but to the people of the Nation [E]ach Member of Congress is 'an officer of the union, deriving his powers and qualifications from the constitution, and neither created by, dependent upon, nor controllable by, the states Those officers owe their existence and functions to the united voice of the whole, not of a portion, of the people.' Representatives and Senators are as much officers of the entire union as is the President.

U. S. Term Limits, Inc. v. Thornton, 115 S.Ct. 1842, 1855 (1994) (citations omitted).

Issues three and four of Question Two ask whether the Legislature or the electors may constitutionally direct that

[t]he Governor . . . use all of the Governor's delegated powers to aid the Legislature in making the application specified in Sec. 2 to the Congress of the United States under Article V of the United States Constitution.

The Governor of the State of Maine (or of any state in the nation) has no delegated powers under Article V of the United States Constitution. Thus, the proposed initiative, by requiring the Governor to "use all of [his] delegated powers" to promote the proposed amendment, fails to indicate any specific duties imposed upon the Governor. As a result, it is our opinion that Section 3 is merely precatory language, having the effect of a request, rather than a directive, to the Governor.

Because Question Two is stated in the present tense, issue five of Question Two asks only whether the current Legislature of Maine can order itself to make an application to the United States Congress for a constitutional convention? We stated in our response to Question One that the current Legislature cannot bind future Legislatures to obey the directives of this proposed legislation. It is clear, however, that the current Legislature may bind itself. By enacting this law by simple majority, the Legislature would bind itself to make an application to Congress for a constitutional convention in the time remaining, if any, of the legislative session. The Legislature could also vote directly in favor of an application to Congress for a constitutional convention. Although Section 2 of the proposed bill would be procedurally awkward, it is not constitutionally prohibited.

Issue six of Question Two asks whether the electors of the State of Maine may direct the

Legislature of the State of Maine to make an application to the United States Congress for a constitutional convention? Our answer to Question One, that the present Legislature cannot bind future Legislatures without passing a constitutional amendment, applies equally to the electors: the initiative, if passed, cannot be binding upon future sessions of the Legislature. In contrast to our response to issue five, however, we are of the opinion that the electors are also unable to bind the current Legislature in this manner. The provision for amending the United States constitution is stated as follows:

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress

U. S. Const. art. V (1985). Thus, while article V contemplates ratification of amendments either by the legislatures of the states or by popular vote via Conventions, the article specifically reserves the power to propose amendments to Congress and the state legislatures. Although they may petition or urge the Legislature to do so, it is not within the power of the electors to propose a constitutional amendment. The proposed initiative, if enacted by a referendum vote, would allow the electors to do indirectly that which they are forbidden to do directly. This aspect of the proposed initiative does not conform to the clearly stated procedural requirements of article V and would not appear to be constitutional.

Question Three essentially asks, must the Legislature submit an initiated bill without any amendment to the voters at referendum, notwithstanding the fact that the bill is unconstitutional as written? The answer is clearly in the affirmative. The Maine Constitution provides that

The [initiated bill] thus proposed, unless enacted without change by the Legislature at the session at which it is presented, shall be submitted to the electors together with any amended form, substitute, or recommendation of the Legislature, and in such manner that the people can choose between the competing measures or reject both.

Me. Const. art. IV, pt. 3, § 18, cls. 2 (1985). The word shall is a mandatory directive to submit the question to referendum. The clause contains no exceptions to such a directive. See Wagner v. Secretary of State, 663 A.2d 564, 566 n. 3 (Me. 1995) (stating, prior to addressing the substantive constitutional challenges to a proposed initiative, that "[s]ince the Legislature has not enacted the initiative without change, it must be referred to the electors."). See also, Opinion of the Justices, 623 A.2d 1258, 1264 (Me. 1993) (answer of Glassman and Clifford, J.J.) ("Me. Const. art. IV, pt. 3, § 18 requires that the initiated bill, [if not enacted by the Legislature], be submitted to the voters in its current form regardless of our opinion as to its constitutional validity."), citing Farris ex rel. Dorsky v. Goss, 60 A.2d 908, 911 (Me. 1948) ("The

right of the people . . . to enact Legislation . . . is an absolute one and cannot be abridged directly or indirectly by any action of the legislature.").

Question Four asks:

In view of the fact that there is some concern that the question that appeared on the printed petition for Initiated Bill 6 does not accurately describe the content of Initiated Bill 6, particularly that portion of the initiative that directs the Legislature, the Governor and the State's congressional delegation to call for a Constitutional Convention, is it within the authority of the Legislature, pursuant to the Maine Constitution, Article IV, Part Third, Section 20, to reform the ballot question prepared by the Secretary of State for Initiated Bill 6?

The Maine Constitution provides that

The full text of a measure submitted to a vote of the people under the provisions of the Constitution need not be printed on the official ballots, but, until otherwise provided by the Legislature, the Secretary of State shall prepare the ballots in such a form as to present the question or questions concisely and intelligibly.

Me. Const. art. IV, pt. 3, § 20 (1985) (emphasis added). We read this sentence as a grant to the Legislature of the power to designate which official(s) will be responsible for drafting the ballot question on a citizen initiative. The Legislature has exercised that power by providing that the Secretary of State shall draft the ballot question, and that he will do so at the time he certifies the initiative petition for circulation. 21-A M.R.S.A. Section 901(4) (1993 & Supp. 1995). This statute may be altered or repealed by the Legislature at any time, and the authority to draft the ballot question may be vested in another named official.

It is clear that the Maine Constitution preserves the option of the Legislature to delegate the authority to draft ballot questions to any named officer, and perhaps even to reserve the power unto itself. It is doubtful, however, whether the Legislature may interfere with the exercise of that delegated authority with respect to the drafting of this specific initiative ballot question, which has proceeded so far along in the initiative process. Although the constitution does not explicitly limit the Legislature's power in this manner, a finding of any additional implied powers under this clause would be contrary to the spirit of the citizen initiative provision. See, e.g., Op. Me. Att'y Gen. 86-9, 1986 WL 288888 ("[T]he entire initiative process is designed as a means of overcoming a Legislature that refuses to enact the measure itself.") Accordingly, we answer Question Four in the negative. Dated at Portland, Maine, this third day of April, 1996.

Respectfully submitted:
S/Daniel E. Wathen
Chief Justice
S/David G. Roberts
S/Paul L. Rudman
S/Howard H. Dana, Jr.
Associate Justices

ANSWER OF JUSTICE GLASSMAN, JUSTICE CLIFFORD
AND JUSTICE LIPEZ

To the Honorable House of Representatives of the State of Maine:

We do not concur in the opinion of our colleagues on the Court and pursuant to article VI, section 3 of the Maine Constitution, we, the undersigned Justices of the Supreme Judicial Court, have the honor to submit our separate response to the questions propounded by the House of Representatives on March 25, 1996.

We first address Question Three that essentially asks whether L.D. 1827 must be submitted to the voters even if it is the opinion of the Justices that the bill is unconstitutional. We agree with our colleagues that the question must be answered in the affirmative. Me. Const. art. IV, pt. 3, § 18 (Supp. 1995) requires that the initiated bill be submitted to the voters regardless of our opinion as to its constitutional validity. The right of the people to enact legislation is absolute and cannot be abridged by any direct or indirect action of the Legislature. Farris ex rel. Dorsky v. Goss, 143 Me. 227, 231 (1948). We also agree with our colleagues that Question Four should be answered in the negative. Finally, we also agree with our colleagues that, in light of the fact that the request for an advisory opinion is made in the closing days of the legislative session, "extensive study and analysis [of the issues] is not possible."

The answer to Question Three prompts us to reach a different conclusion from our colleagues as to Questions One and Two. We believe that Questions One and Two do not constitute important questions of law upon a solemn occasion requiring an advisory opinion and, therefore, decline to answer them. Although the Legislature has the option of enacting L.D. 1827 in its current form, the initiated measure cannot be amended nor can it be kept from the voter referendum. The Legislature may submit a competing measure to voter referendum along with L.D. 1827, pursuant to Me. Const. art. IV, pt. 3, § 18, but there is nothing before us to indicate that a competing measure free from the same constitutional questions is being considered. Opinion of the Justices, 623 A.2d 1258, 1264 (Me. 1993).

"The matters with regard to which advisory opinions are proper are those of instant, not past nor future, concern; things of live gravity." Opinion of the Justices, 134 Me. 510, 513 (1936). Only recently the Law Court held that whether a proposed initiative would be ineffective as an attempt to limit future legislative action is a question not ripe for judicial review prior to approval by the voters. Wagner v. Secretary of State, 663 A.2d 564, 567 (Me. 1995). Ripeness concerns the fitness of an issue for judicial decision and the hardship to the parties of withholding court consideration. Maine Pub. Serv. Co. v. Public Util. Comm'n, 524 A.2d 1222, 1226 (Me. 1987). Like the proposed initiative at issue in Wagner, this measure may never become effective, and we thus are not faced with a concrete, certain, or immediate legal problem. Except in rare circumstances, not present here, we believe "it is inappropriate to address the constitutionality of an initiative measure before it has been presented to the voters." Opinion of the Justices, 623 A.2d at 1264, and prefer to allow the electorate to express its view prior to rendering our opinion on the measure.

We believe we should not interfere with or in any way handicap the people's right of franchise by

offering an opinion on the enforceability of an initiated measure before the electorate has expressed its view.

Accordingly, we answer Question Three in the affirmative and Question Four in the negative. We respectfully decline, however, to answer Questions One and Two.

Respectfully submitted,
S/Caroline D. Glassman
S/Robert W. Clifford
S/Kermit V. Lipez
Associate Justices

Was read and ordered placed on file.

The following Communication: (H.C. 435)

STATE OF MAINE
SUPREME JUDICIAL COURT
AUGUSTA, MAINE 04330

April 3, 1996

Hon. Dan A. Gwadosky
Speaker of the House
State House - Room 301
Augusta, Maine 04333

Dear Mr. Speaker:

It is my pleasure to transmit the enclosed Opinion of the Justices with reference to the Questions Propounded in a communication dated March 26, 1996.

Sincerely yours,
S/Daniel E. Wathen
Chief Justice

OPINION OF THE JUSTICES
OF THE SUPREME JUDICIAL COURT
GIVEN UNDER THE PROVISIONS OF SECTION 3
OF ARTICLE VI OF THE CONSTITUTION
Docket No. OJ-96-3

QUESTIONS PROPOUNDED BY THE HOUSE OF REPRESENTATIVES
IN A COMMUNICATION
DATED MARCH 26, 1996
ANSWERED APRIL 3, 1996

OPINION OF THE JUSTICES

To the Honorable House of Representatives of the State of Maine:

In compliance with the provisions of section 3 of article VI of the Constitution of Maine we, the undersigned Justices of the Supreme Judicial Court, have the honor to submit the following response to the questions propounded by the House of Representatives on March 26, 1996.

When this Court receives a request for an advisory opinion from either house of the Legislature or from the Governor, we first determine whether we have the constitutional authority to answer the propounded questions. Opinion of the Justices, 623 A.2d 1258, 1261 (Me. 1993). Our State's Constitution obliges us to give our opinion "upon important questions of law, and upon solemn occasions, when required by the Governor, Senate or House of Representatives." Me. Const. art. VI, § 3. We answer only questions concerning matters of present concern, i.e., what we have previously referred to as "things of live gravity." Opinion of the Justices, 623 A.2d at 1261.

The House of Representatives had before it an initiated bill, L.D. 1823, the purpose of which was

twofold: 1.) to create an alternative, publicly-financed campaign election fund and 2.) to reduce the caps on election contributions in 21 M.R.S.A. §§ 1015(1) and (2). Pursuant to article IV, part third, section 18, clause 2 of the Constitution of Maine, an initiated bill, unless enacted without change by the Legislature at the session at which it is presented, must be submitted to the electors. Me. Const. art. IV, pt. 3, § 18.

We are informed that L.D. 1823 has expired for purposes of legislative action. The concurrence of both houses was required in order to present the bill to the Governor. Me. Const. art. IV, pt. 3, § 2. The failure of both chambers to agree to the passage of the bill results in the submission of the bill to the electorate pursuant to Me. Const. art. IV, pt. 3, § 18.

Therefore the question of enactment of L.D. 1823 is no longer before the Maine Legislature and consequently a solemn occasion no longer exists. In sum, the House does not require guidance in the discharge of its obligations as there is no further action that it may take. Because we are not presented with an important question of law upon a solemn occasion, we must refrain from issuing an opinion that is neither useful to the Legislature nor within the constitutional grant of our advisory power. Dated at Portland, Maine, this third day of April, 1996.

Respectfully submitted:
S/Daniel E. Wathen
Chief Justice
S/David G. Roberts
S/Caroline D. Glassman
S/Robert W. Clifford
S/Paul L. Rudman
S/Howard H. Dana, Jr.
S/Kermit V. Lipez
Associate Justices

Was read and ordered placed on file.

The following Communication: (H.C. 436)
Jobs for Maine's Graduates, Inc.
209 Maine Avenue
Suite 200
Farmingdale, Maine 04344

April 8, 1996

Joseph W. Mayo
Clerk of the House
House of Representatives
State House Station #2
Augusta, Maine 04333
Dear Clerk Mayo:

Pursuant to Public Law, Chapter 348, please find attached Jobs for Maine's Graduates, Inc. 1995 Annual Report.

Last week we distributed the report to the Joint Standing Committees of Labor and of Education and Cultural Affairs, along with original cover letters for each member. At that time, I was informed that I needed to submit the same to you. I apologize for the delay.

Please do not hesitate to contact us if we can clarify any concerns, questions, or issues you may have.

Sincerely,
S/John Stivers, Jr.
Communications Officer

Was read and with accompanying report ordered placed on file.

The following Communication: (H.C. 437)
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
#135 STATE HOUSE STATION
ROOM 114, STATE OFFICE BUILDING
AUGUSTA, MAINE 04333-0135
May 7, 1996

The Honorable Dan A. Gwadosky
Speaker of the House of Representatives
State House Station #2
August, Maine 04333
Dear Speaker Gwadosky:

Pursuant to the provisions of 1 M.R.S.A. Section 1007, I enclose herewith the report of the Commission on Governmental Ethics and Election Practices for the calendar years 1994 and 1995.

Sincerely,
S/Marilyn Canavan
Director

Was read and with accompanying report ordered placed on file.

The following Communication: (H.C. 438)
117th Maine Legislature
May 30, 1996

The Honorable Joseph Mayo
Clerk of the House
State House Station #2
Augusta, ME 04333
Dear Clerk Mayo:

Please be advised that we have made the following appointment:

Motor Carrier Training Advisory Board; Pursuant to Public Law 1995, Chapter 376, Section 5:

Senator Albert G. Stevens, Jr. of Sabattus
Please let us know if you have any questions regarding this appointment.

Sincerely,
S/Jeffrey H. Butland S/Dan A. Gwadosky
President of the Senate Speaker of the House
Was read and ordered placed on file.

The following Communication: (H.C. 439)
Bureau of Corporations, Elections and Commissions
Department of the Secretary of State
101 State House Station
Augusta, Maine 04333-0101

June 7, 1996

Joseph W. Mayo, Clerk of the House
House of Representatives
2 State House Station
Augusta, Maine 04333
Dear Clerk Mayo:

Pursuant to Public Law 601, An Act to Place Penobscot Land in Trust, I am submitting to your office a certified resolution by the Tribal Council of the Penobscot Nation that the Penobscot Nation has agreed to the provisions of this act.

Sincerely,
S/Julie L. Flynn
Director of Corporations and Elections

At this point, Representative WHITCOMB of Waldo reported that he had delivered the message with which he was charged.

**RESOLUTION
NUMBER 05-29-96-01
OF THE PENOBSCOT NATION**

WHEREAS, the Penobscot Nation is a federally recognized Indian Tribe; and
WHEREAS, the Penobscot Tribal Governor and Council is the duly authorized and elected governing body of the Penobscot Nation;
WHEREAS, the Penobscot Nation held a General Meeting May 29, 1996 for the purpose of approving or disapproving legislation that was enacted by the 117th Legislature for the State of Maine;
THEREFORE, BE IT RESOLVED, that the Penobscot Nation approved Resolution 05-29-96-01: H.P.-1306-L.D. 1787 An Act to Place Penobscot Land in Trust

CERTIFICATION

I, Lorraine Dana, hereby certify that I am the Tribal Clerk of the Penobscot Nation and official custodian of certain records, including Minutes of the Meetings of the Penobscot Indian Nation, a federally recognized and sovereign Indian Tribe and that the foregoing is a true, accurate and compared transcript of resolutions contained in the Minute Book of the Nation, adopted at a General Meeting of said Nation, duly held on the 29th day of May, 1996, and that the proceedings of said Nation, and that the said resolutions have not been amended or revoked and is in full force and effect.

S/Richard H. Hamilton S/Lorraine Dana
Governor Tribal Clerk

Was read and ordered placed on file.

The following Communication: (H.C. 440)
STATE OF MAINE

Department of Administrative and Financial Services
Bureau of Accounts and Control
June 11, 1996

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

Dear Mr. Speaker and Mr. President:

In accordance with Title 5, Maine Revised Statutes Annotated, Section 1547, I am pleased to submit the Financial Report of the State of Maine for the Fiscal Year ended June 30, 1995.

Attached to this letter is a memorandum specifying the improvements made to this Annual Report. These changes bring the State's financial reporting closer to GAAP/GASB compliance. At this time several bids from accounting firms are being evaluated, and one will be selected to help complete compliance for future Annual Reports. Total compliance with GAAP/GASB standards will be achieved when the State's fixed asset inventory is done in conjunction with adding the Fixed Asset module to the MFASIS accounting system, all of which is in process.

We are pleased to deliver these improvements and believe that the added information and schedules will be a benefit to everyone. Comments about any facet of this report are welcome.

Sincerely,

S/Carol F. Whitney
State Controller

Was read and with accompanying report ordered placed on file.

The following Communication: (H.C. 441)
STATE OF MAINE
DEPARTMENT OF PUBLIC SAFETY
STATE HOUSE STATION 42
AUGUSTA, MAINE 04333

June 19, 1996
Joseph W. Mayo
Clerk of the House
2 State House Station
Augusta, ME 04333

Dear Clerk Mayo:

Please find enclosed a copy of the final application and strategy submitted to the Bureau of Justice Assistance for funding of the FY 96 Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program.

The program requires that the application be submitted to the State Legislature or its designated body for review. Unless I receive further instructions, I will consider that the Department of Public Safety has fulfilled its obligation in this area.

Sincerely,
S/Alfred Skolfield
Commissioner

Was read and with accompanying papers referred to the Committee on Appropriations and Financial Affairs.

Subsequently, Representative SPEAR of Nobleboro reported that the Committee had delivered the message with which it was charged.

The following Communication: (H.C. 442)
STATE OF MAINE
DEPARTMENT OF PUBLIC SAFETY
STATE HOUSE STATION 42
AUGUSTA, MAINE 04333

June 27, 1996
Joseph W. Mayo
Clerk of the House
2 State House Station
Augusta, ME 04333

Dear Clerk Mayo:

Please find enclosed a copy of the final application and Implementation Plan submitted to the Office of Justice Programs for funding of the FY 96 Residential Substance Abuse Treatment Grant Program.

The program requires that the application be submitted to the State Legislature or its designated body for review. Unless I receive further instructions, I will consider that the Department of Public Safety has fulfilled its obligation in this area.

Sincerely,
S/Alfred Skolfield
Commissioner

Was read and with accompanying papers referred to the Committee on Appropriations and Financial Affairs and the Committee on Criminal Justice.

The following Communication: (H.C. 443)

MAINE STATE LEGISLATURE
OFFICE OF FISCAL AND PROGRAM REVIEW
STATE HOUSE STATION 5
AUGUSTA, MAINE 04333

July 24, 1996

Honorable Dan A. Gwadosky
Speaker of the House
2 State House Station
Augusta, Maine 04333-0002
Dear Speaker Gwadosky:

In early June 1996, we received a copy of the Bureau of Budget's revenue and expenditure projection for fiscal years 1996 through 1999. This report is a requirement of Title 5, section 1665 of the Maine Revised Statutes Annotated.

Attached please find a copy transmitted to us for your review.

Sincerely,

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

Was read and with accompanying report ordered placed on file.

The following Communication: (H.C. 444)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002

August 20, 1996

The Honorable Joseph W. Mayo
Clerk, Maine House of Representatives
State House, Station #2
Augusta, Maine 04333

Dear Clerk Mayo:

Pursuant to House Rule 1, I am appointing Richard H. Thompson of Naples to replace Rep. David Etnier of Harpswell as a member of the Joint Standing Committee on Health and Human Services. This appointment takes effect immediately.

Sincerely,
S/Dan A. Gwadosky
Speaker of the House

Was read and ordered placed on file.

The following Communication: (H.P. 1391)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333-0002

August 20, 1996

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

Dear Mr. Speaker and Mr. President:

On August 20, 1996, one bill was received by the Clerk of the House.

Pursuant to the provisions of Joint Rule 308.2, this bill was referred to the Joint Standing Committee on August 20, 1996, as follows:

Agriculture, Conservation and Forestry

Bill "An Act to Implement the Compact for Maine's Forests" (H.P. 1390) (L.D. 1892) (Presented by Representative SPEAR of Nobleboro) (Cosponsored by Senator PARADIS of Aroostook and Representatives: CROSS of Dover-Foxcroft, GOOLEY of Farmington, GOULD of Greenville, KILKELLY of Wiscasset, Senators:

HARRIMAN of Cumberland, LONGLEY of Waldo, MICHAUD of Penobscot, MILLS of Somerset) (Governor's Bill)

Sincerely,
S/Joseph W. Mayo
Clerk of the House
S/May M. Ross
Secretary of the Senate

Was read and ordered placed on file and sent up for concurrence.

The following Communication: (H.P. 1393)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333-0002

August 29, 1996

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

Dear Mr. Speaker and Mr. President:

On August 29, 1996, one bill was received by the Clerk of the House.

Pursuant to the provisions of Joint Rule 308.2, this bill was referred to the Joint Standing Committee on August 29, 1996, as follows:

Labor

Bill "An Act to Conform the Maine Tip Credit to the Federal Tip Credit" (EMERGENCY) (H.P. 1392) (L.D. 1893) (Presented by Representative KERR of Old Orchard Beach) (Cosponsored by Senator AMERO of Cumberland and Representatives: CAMPBELL of Holden, FISHER of Brewer, TRUE of Fryeburg, WATERHOUSE of Bridgton, Senators: BUTLAND of Cumberland, FERGUSON of Oxford, STEVENS of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.)

Sincerely,
S/Joseph W. Mayo
Clerk of the House
S/May M. Ross

Secretary of the Senate

Was read and ordered placed on file and sent up for concurrence.

The following Communication: (H.C. 445)

117th Maine Legislature

August 29, 1996

The Honorable Joseph Mayo
Clerk of the House
#2 State House Station
Augusta, ME 04333
Dear Clerk Mayo:

Please be advised that we have made the following appointment:

Oversight Committee on Performance-Based Contracting;
pursuant to Public Law 1993, Chapter 737:

Rep. Michael J. McAleve of Waterboro
Please let us know if you have any questions regarding this appointment.

Sincerely,
S/Jeffrey H. Butland S/Dan A. Gwadosky
President of the Senate Speaker of the House
Was read and ordered placed on file.

The following Communication: (H.P. 1395)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333-0002
September 3, 1996

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

Dear Mr. Speaker and Mr. President:

On September 3, 1996, one bill was received by the Clerk of the House.

Pursuant to the provisions of Joint Rule 308.2, this bill was referred to the Joint Standing Committee on September 3, 1996, as follows:

Appropriations and Financial Affairs

Bill "An Act to Authorize the Department of Human Services to Accept Federal Funds and to Make Certain Expenditures" (EMERGENCY) (H.P. 1394) (L.D. 1895) (Presented by Representative KERR of Old Orchard Beach) (Cosponsored by Senator HANLEY of Oxford and Representative FITZPATRICK of Durham, Senator: PENDEXTER of Cumberland) (Governor's Bill)

Sincerely,
S/Joseph W. Mayo
Clerk of the House
S/May M. Ross
Secretary of the Senate

Was read and ordered placed on file and sent up for concurrence.

The following Communication: (H.C. 446)
MAINE STATE LEGISLATURE
Augusta, Maine 04333

Augusta 21, 1996
The Honorable Jeffrey H. Butland
The Honorable Dan A. Gwadosky
Maine Legislature
State House
Augusta, ME 04333

Dear President Butland and Speaker Gwadosky:

I am pleased to forward to you the enclosed report of the Select Committee to Study Rate Increases in Nursing Homes. During the course of its work the Select Committee learned of rate increases in nursing facilities that have taken place or will take place during 1996. The committee did not find these increases to violate Private and Special Law 1995, Chapter 80. When Chapter 80 takes effect on January 1, 1997, all increases during 1996 including these will be used to total the rate increases since July 1, 1993.

Because this inquiry has raised policy questions beyond the scope of our authority, the Select Committee recommends that the 118th Legislature examine rate setting and rate equalization, the provision of timely and accurate information on nursing facilities to the public and the possibility of standardized contracts for basic nursing home services.

The Select Committee has enjoyed the able assistance of the Long Term Care Ombudsman Program, the Maine Health Care Association and the Department of Human Services. Members of the public and the nursing home industry provided valuable information to the Select Committee. We extend our thanks to all who participated.

Sincerely,

S/Georgette Berube, Chair
Was read and with accompanying report ordered placed on file.

The following Communication: (H.C. 447)
Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS
State House Station 13
Augusta, Maine 04333
COMMISSION ON HIGHER EDUCATION GOVERNANCE
September 4, 1996

The Honorable Jeffrey H. Butland
The Honorable Dan A. Gwadosky
Maine Legislature
State House
Augusta, ME 04333

Dear President Butland and Speaker Gwadosky:

This letter is to inform you that the Commission on Higher Education Governance has submitted the attached report of our study of higher education governance to the 117th Legislature, pursuant to Public Laws of 1995, chapter 395.

Sincerely,
S/Norman Fournier
Chair

Was read and with accompanying report ordered placed on file.

The following Communication: (H.C. 448)
STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002

August 20, 1996
Honorable Joseph W. Mayo
Clerk of the House
State House Station #2
Augusta, Maine 04333

Dear Clerk Mayo:

Please be advised that I have made the following appointments:

The Advisory Committee on Gambling pursuant to my authority under the Governor's Executive Order #8:

State Representative Paul F. Jacques of Waterville; and

State Representative Harry G. True of Fryeburg.

The Mental Health Task Force, pursuant to my authority under the Governor's Executive Order #10:

State Representative David Etnier of Harpswell.

Task Force on Paperwork Reduction in Nursing Facilities pursuant to my authority under Resolve 1995, Chapter 71:

Nancy Chamberlain, Director of Nursing at Mount St. Joseph in Waterville;

Claire N. Brannigan, Director of Nursing at Sedgewood Commons in Falmouth; and

Deborah Vilasuso, Executive Director of Visiting Nurses Association and Hospice in South Portland.

Whitewater Safety Committee pursuant to my authority under 12 MRSA, Section 7367:

Dr. Paul Reinstein of Skowhegan.

The Pollution Prevention Advisory Committee pursuant to my authority under 38 MRSA, section 343-D:

Michael J. Skoczinski, CFO of East Coast Machine, Inc. as the representative of a small business stationary source.

Task Force on Production and Issuance of License Plates pursuant to my authority under PL 1995, Chapter 645:

State Representative William B. O'Gara, of Westbrook, Transportation Committee Member; and State Representative Joseph D. Driscoll, of Calais, Transportation Committee Member.

Study Group to Review and Make Recommendations on School Construction Issues pursuant to my authority under PL 1995, Chapter 632:

State Representative Julie Winn of Glenburn.

Advisory Committee to Assist in the Management of State Employees Workers' Compensation Costs, pursuant to my authority under Resolve 1995, Chapter 63:

Charles Murphy of Bangor as the representative of American Federation of State, County and Municipal Employees;

Jan Stetson Reynolds of Oakland as the representative of the Maine State Troopers Association;

John Hinkley of Farmington Falls as the representative of the Maine State Employees Association; and

James Case, Esquire, of Topsham as an attorney who handles workers' compensation claims.

The Oil Spill Advisory Committee pursuant to my authority under 38 MRSA, Section 551-A:

Tracy Smith of Dennysville as a public member.

The Task Force on Lead Poisoning Liability and Insurance pursuant to my authority under PL 1995, Chapter 572:

State Representative Elizabeth Watson of Farmingdale.

Sincerely,

S/Dan A. Gwadosky

Speaker of the House

Was read and ordered placed on file.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 56 and Joint Rule 213, the following items:

Recognizing:

Diogo Ollivera, Heidi McCarthy, Sara Tonzi, Kristen Erickson and Keith Luhmann, members of Dawn Dougan's Houlton High School physics class who constructed a piece of adaptive equipment which will enable a disabled student to control electronic devices through a paddle system. The students all volunteered their time because it was something they wanted to do for a worthy project. We extend our thanks and appreciation to this group of students for their successful efforts with the project. We also extend our appreciation to Dawn Dougan for her tremendous work as a teacher; (HLS 1422) by Representative CLUKEY of Houlton. (Cosponsors: Senator MICHAUD of Penobscot, Representative WHEELER of Bridgewater)

On objection of Representative CLUKEY of Houlton was removed from the Special Sentiment Calendar.

Was read.

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

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House: At the end of the last school year in Houlton, Dawn Dugan and five members of her physics class were recognized locally for scholastic achievement that went beyond what might be expected for a junior physics class. With the guidance of Mrs. Dugan these high school juniors,

Diogo Ollivera, Heidi McCarthy, Sara Tonzi, Kristen Erickson and Keith Luhmann, researched, planned and developed a special electronic device which allows a sightless student, or a student with other profound physical disabilities to operate a variety of devices by touch. Although there was a similar device commercially available it was very expensive. These students volunteered to take on the project because they felt it was a worthy cause and something they really wanted to do. With the basic guidance from their teacher these five students did all the research, all the problem solving, and with the help of an anonymous donor who furnished the parts, actually came up with the device and went beyond the scope of the original project. According to their teacher the work was on a level of something that might have been conducted in the college freshman engineering class. Not only did they develop a piece of equipment at virtually no cost, they provided a severely challenged fellow student with something that would greatly enhance his quality of life.

Diogo Ollivera was a foreign exchange student and has since returned to his native country, but it is a real pleasure for me to have Mrs. Dugan and the other four students here today to be recognized by the Legislature and the people of the State of Maine. Thank you.

Which was passed and sent up for concurrence.

the following members of the Scarborough Girls Senior League Softball Team: Erin Floyd, Megham McDonald, Liz Winslow, Jessica Shorey, Nicole Copeland, Heather Nadeau, Amanda Brown, Maria Curran, Jessica MacDonald, Michelle Winslow, Michelle Snowman, Mollie Martin, Brianna Libby and Melissa Fowler, who finished 4th in the World Series in Kalamazoo, Michigan and set an all-time record for Scarborough. They were undefeated in the state championship, won the New England competition and the Eastern Regional tournament. The team is coached by Gerry Brown and Carolyn Libby and managed by Rusty Shorey. We extend our congratulations and best wishes; (HLS 1424) by Representative LOVETT of Scarborough. (Cosponsors: Representative PENDLETON of Scarborough, Senator AMERO of Cumberland, Senator PENDEXTER of Cumberland)

On objection of Representative LOVETT of Scarborough was removed from the Special Sentiment Calendar.

Was read.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Lovett.

Representative LOVETT: Mr. Speaker, Ladies and Gentlemen of the House: It is indeed a great honor and a privilege to stand here today to praise the virtues of the Scarborough Senior League girls softball team. They went to the World Series in Kalamazoo, Michigan and placed fourth in the world competition. Little did I realize when I was asked to throw out the first ball at the State championships held in Scarborough during the second week of July that this group of girls, ages 13 through 15, would win the State championship that week going undefeated. Then they would go on to New London, Connecticut and the New England series where they won, losing only one game. Later they captured the Eastern Regional Series at New Haven, Connecticut, where they went undefeated once more

against teams from Pennsylvania, New York, Connecticut, and Delaware. Following this victory, with little time to rest or even talk about their victorious record, this team was headed for Kalamazoo, Michigan and the Senior League Girls World Series. Here the Scarborough team once again displayed a championship talent, winning one game and losing two games, which placed them fourth in the World Series. The people of Maine can be rightfully proud of their record of accomplishment as they have brought honor and distinction to our state and to our community, as well as to their parents and to their friends. It is my pleasure to introduce to you the Scarborough Girls Senior Softball Champions, their two coaches, their managers and their families. Thank you.

Which was passed and sent up for concurrence.

In Memory of:

Representative George F. Ricker, of Lewiston, a Member of the Maine State Legislature during the 104th, 106th, 115th, 116th and 117th Legislatures. He was on the City Council and was a former member of the School Board in Lewiston, and he was active in many social and service organizations, including the Pastime Club of Lewiston. We acknowledge his dedicated service to his city, his district and to the State of Maine. Representative George F. Ricker will be sadly missed by his loving family, friends and colleagues; (HLS 1425) by Representative GAMACHE of Lewiston. (Cosponsors: Senator BERUBE of Androscoggin, Senator CLEVELAND of Androscoggin, Representative POULIOT of Lewiston, Representative LEMAIRE of Lewiston, Representative BOUFFARD of Lewiston)

On objection of Representative GAMACHE of Lewiston was removed from the Special Sentiment Calendar.

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

Representative GAMACHE: Mr. Speaker, Beloved Colleagues of the House: George isn't here. He has been taken from us. To me befalls the painful honor of voicing a fond farewell.

I must start on a personal note as you might expect. George and I have been friends for close to half a century. I first knew him as a teenager. He worked for me for some time. I shared the agony of his courtship. The intended father-in-law did not approve of him and it was a very, very bloody few weeks before he got permission to marry. It was worth the effort, I might add. George was not a frequent voice in this chamber. He was loyal here. He loved, as I suspect we all do, this institution. He did his duty as he saw it.

We had an agreement that we would not lobby each other. He held to it without fail along the way. I had a tendency to cheat once and a while, but not by saying George vote for this, but by making remarks about what a wonderful thing it would be if we passed this. He would respond in either of two ways. He would face forward and make believe he never heard me or he would say that he was voting against this. There were never any problems involved with that.

I know to do justice to George, I have to take you to Lewiston briefly. This is where he came from. It is where he lived. It is where he meant the most to the people who knew and loved him. He was a product of little Canada. He was a product of the Franco-American community, even as I am. Over many

years he played a very important role socially in this community. He was active in virtually every organization from social clubs, drum corps, baseball teams. He was a good pitcher and as a matter of fact, just two years ago in the Moxie Parade in Lisbon, he walked out there beating the big drums. He told me afterward, "Al, this is the last time. This is tough work." It was to be the last time. In a sense, he has been for ages a member of Lewiston City Council, the school committee or some commission in Lewiston that has been the core of his life. It is not hard for you to imagine how much he meant to the community, his community, by the way that they reacted to him.

When the newspaper called me after his death, they asked me what I remembered of him. I said, his zest for life. This man really enjoyed being alive. I always envied him in that capacity. George, I said of him, every weekend is a celebratory occasion. He would go to the club and hang with his buddies or go to a karaoke at night or a dance. There was always something very special. The club owners, the people who run these things are in my district on the strip in Lewiston. One of the best ways they could say this is going to be a special occasion was George is going to be here. That was a signal that this was an event not to be missed. I only joined him once and regretted it the morning after. He was very much alive.

Of course, I benefitted in great measure, the core of my house district is the Lisbon Street district that he represented for so many years in the city council. The reason I suppose that my district has been so safe and I had been able to be so fastened and unconcerned was that everybody in the district knew I was a friend of his and they wouldn't run against a friend of George. This is the kind of person that he was.

Let me go back now to the sad period of his wake and funeral. It was astonishing the amount of people who turned up. It was just plain astonishing. They had to change the location of the funeral to a larger church, that was pretty well filled for the occasion. They knew that George would be there. A final note in the long process of my becoming mature, I have learned some things about life. One of them being that even in the darkest of hours, we find something worth treasuring and worth remembering with great pleasure. For me, it was meeting his family really for the first time.

I didn't know his children. In those final weeks when I visited with him with great regularity, sometimes wondering if I was making a nuisance of myself, I got to meet the four beautiful daughters and a fine sensitive son who hovered about him, who could do nothing to satisfy their own desire to be of service and to show their love. He must be remembered finally as a man who raised a fine and loving family. In the end this must be his ultimate bequest. Thank you.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: We have all known George as being a quiet person. No one hated George, but I have to tell you that once I am through and once I make my comments it may give you reason to think otherwise.

In 1970, I was a candidate for Minority Floor Leader. Some of you may remember that far back. You may remember that I was running against a reputable

member of this body. The final vote was 34 to 32. George was one of those votes. You have a reason now to hate him, because he voted for me and started my career.

George was one of those persons that once his word was given, that was it. You never questioned it again. You knew that regardless of what happened, whether how thin or how tough it might get, he would always stand by your side. Through all the years that I have known him and the family, there is absolutely no question that he was a man of total honesty and respectability. It was clear, as you have just heard from his fellow compatriot from Lewiston of the respect that the people from Lewiston, had last week. The crowd was amazing and many of you were there. You know from what I speak, to see the respect and to see the way in which they loved George. He will be missed if not for anything else, but because he was so quiet, contrary to some of us. In my opinion, he represented the best for the City of Lewiston and for the people of Maine. Thank you.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: Unlike the two previous speakers, I did not have the privilege of knowing George Ricker as long as they did. In fact, I am a late convert to this very wonderful, deep and very dedicated man. His love for this institution came home to me so vividly in the last conversation that I had with George. Before I go to that, I want to echo what Representative Gamache has said. The final tribute that was so eloquent about Representative Ricker was not the words that were spoken at his service, but it was his family who stood beside him in tribute to their father, who had raised such a marvelous, marvelous family and the hundreds of people, frankly not just from Lewiston, but from across Maine that he had touched. He was referred to and those of you on the committee, I'm sure appreciate it more than the rest, as "Mr. Transportation," which he saw as a very important contribution to the people of Lewiston or for the whole state.

I just want to describe my last conversation with him. I never realized it would be my last. We never like to think about those things. He was very troubled about a newspaper reporter who wanted to plaster his illness all over the front page of the Lewiston paper. The tack they were initially taking was that he knows he has a terminal illness, perhaps it is only fair that he not run. You can just imagine how this quiet man responded to that suggestion. "I am running and I am going to run with every fiber of my being and I intend to come back to Augusta to represent the people there." He had told his wife to not call the doctors and to not even talk to the reporters anymore and that no way was he giving up. That was the image I will always have of George Ricker. He was never going to give up although this terminal illness went much faster than anybody ever anticipated.

This great sense of community, of belief and love of this institution, the very first words his wife spoke to me as I went to the funeral home was, "You know his signs are in the garage." He really wanted to come back. All I will say is that he is back. He will always be here and I think all of us are going

to be better stewards for having known Representative George Ricker.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: Back in 1973 when I became a member of this body, I met George Ricker. Being a Representative from a small community in Maine and meeting a Representative from one of the larger cities and being of a different political party, we became friends.

George left us during those years and came back in the 115th Legislature. He became a member of the Transportation Committee. We renewed our friendship. I must tell you as Representative Martin said today, that if Representative Ricker told you where he stood on an issue, he was sincere and you could trust him. I know a couple of times and on a couple of issues that were controversial, one in particular was the seat belt law, when it came down last year, how I was going to vote or how he was going to vote. We usually stood outside of the committee room. We would discuss some of these issues. George and I were usually on the same side. He felt strong about that issue as well as I did, but he was concerned at that point of what kind of a vote we were going to have in committee. He asked me outside the room if I had changed my mind. I said, No, have you? He said, "No."

Just this year, I had a bill in for motor vehicle that I had put in to make changes in what we call the catchall bill. George came to me and said that that seat belt law that we passed last year, I have to do something for my taxi cab drivers in Lewiston and asked if I would help him out. I said whatever you want Representative Ricker, you have my support. It just amazes me over the years that I have been here that a Representative from a small community of a different party could become acquainted with a Representative from a large community and have the friendship that we had. I certainly will miss George Ricker.

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

Representative BOUFFARD: Mr. Speaker, Colleagues of the House: I am probably the freshman legislator of Lewiston that knew George very well. I knew George for years by reputation, but only in the last two years as a real close friend. George and I traveled here together and were on the same committee. I always admired the fact that for a man who had very few words to say, he was one of the most effective communicators from his district in Lewiston and for the whole City of Lewiston and probably for the citizens of the State of Maine. I will miss George. Mr. Speaker, I ask that when we adjourn from this session today, we do so in fond memory of George Ricker. Thank you.

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: I have known George Ricker for a long time, not as well as Representative Gamache or Representative Bouffard. He was on the school committee, which I attended regularly. He was on the city council, which I bothered regularly. I even had, eons ago, his son in kindergarten. I knew the family and I knew George.

I can remember last year in the House there was a bill coming up that I was rather hyped up about. I

had sent him a note and said I really, really, really need your vote. He sent me back a note that said, "I will, I will, I will. You have my vote." I did that a couple of times during the session. When you wanted to talk to George about something you know how quiet he was, but when he felt strongly about something, there was no one that hung tighter than George on an issue. He was loyal. He was trustworthy and he was always a gentleman. I will miss him. Thank you Mr. Speaker.

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: I won't repeat what was just said here. I have had the pleasure of knowing George for 30 some odd years. It has been a great pleasure. You have heard many people say that he was a very soft spoken man, but he accomplished what he had to do. All I would like to say to George is, George, old legislators never die, they just move onto a happier place. Thank you.

The SPEAKER: The Chair would ask all members to please stand at this time in a moment of silence for a former colleague, the Representative from Lewiston, Representative George Ricker.

Was read and adopted and sent up for concurrence.

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

At this point, the Speaker recognized the Representative from Paris, Representative BIRNEY and the Representative from Poland, Representative AIKMAN and they were added to the quorum call of the Second Special Session of the 117th Legislature.

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

(After Recess)

The House was called to order by the Speaker.

At this point the Speaker recognized the Representative from Portland, Representative RICHARDSON, the Representative from Glenburn, Representative WINN, the Representative from Brewer, Representative FISHER, the Representative from East Millinocket, Representative ROSEBUSH, and the Representative from Wilton, Representative HEESCHEN, and they were added to the quorum call of the Second Special Session of the 117th Legislature.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-923) on Bill "An Act to Conform the Maine Tip Credit to the Federal Tip Credit" (EMERGENCY) (H.P. 1392) (L.D. 1893)

Signed:

Senators:

Representatives:

BEGLEY of Lincoln
MILLS of Somerset
WINSOR of Norway
JOYCE of Biddeford
JOY of Crystal
STEDMAN of Hartland
PENDLETON of Scarborough

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

Signed:

Senator:

Representatives:

RAND of Cumberland
HATCH of Skowhegan
TUTTLE of Sanford
SAMSON of Jay
LEMAIRE of Lewiston
CHASE of China

Was read.

Representative HATCH of Skowhegan moved that the House accept the Minority "Ought Not to Pass" Report.

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

Representative HATCH: Mr. Speaker, Men and Women of the House: I'm here today because of the bill that came into this special session. A lot of us were expecting today to come down here on the forestry issue and were not anticipating an issue of this magnitude. About two weeks ago I was approached and told that there had been a bill submitted and asked if we could schedule a hearing. When I was polled about a month and a half ago I was promised that I would not put any legislation in, and I thought no one else was going to. So, during the course of yesterday and today I had to withdraw that promise not to deal with any bills. This particular bill is the tip credit bill. It involves the restaurant industry. The prime sponsor of the bill is a member of my party and I feel that in all good conscience that he felt this was an issue that needed to be broached. The Restaurant Association last week got a hold of me, wanted to meet with me with members in my home town. At that time I met with them, and I told them that I understood their concerns. I could not give them an answer right then but that I would definitely look at the issue when we had a hearing. Apparently, through the grapevine I guess, what they surmised what I said was something to the effect that I totally supported this bill, which I never did at that time and I did not yesterday.

I don't have a problem with a bill of this magnitude except we had a hearing yesterday, the Restaurant Association was there in full force. Many of my members from Skowhegan were there. They gave testimony. We heard a lot of testimony. We got very little facts and figures from the industry. They gave us a lot of information but not a lot of statistical information that we really need to work on a bill like this. We worked through our lunch time, held the hearing so everyone could speak. We were under the gun, and I think every member of the Labor Committee listened intently to all of the discussion. We know there is a problem out there with the restaurant industry. If the feds do not change their statute, the minimum wage, when it was increased by the Republican Congress, we would be paying a minimum wage of half of that in the State of Maine because that's what the normal was on the federal level. They changed it for the restaurant industry, for whatever reason, keeping the current \$2.13 that's in Maine law, 50 percent of \$4.25 is

\$2.13. So, the reason and rationale to this bill was restaurant owners are having a hard time, waitresses and wait staff make more than minimum wage, which they probably could. Currently the IRS is doing a tracking on restaurants to find out how much of that income is unreported. They claim there is \$6 billion or \$8 billion out there as unreported income. If you are a waitress and you are earning \$20.00 an hour, that's fine. I would like to work in one of those restaurants. I have never worked for much above minimum wage and it sure would be an increase for me. But, there are a lot of little restaurants that are borderline and I don't doubt that they make a living wage. The problem I am having with this bill is we don't have any information, none.

In all honesty I voted against the bill because as the House Chair, and any of you who chair a committee out there you understand exactly where I am coming from, from the good Representative from Old Orchard Beach to any committee that you want to name in this House, you do not process something through committee without information. We did this bill in four hours. I think it needs a longer look. I don't think it's a question of who did what to whom, or whether someone is having a tough time. I just want you to know that I am going to stick with the "Ought Not to Pass" report because I think I have to. I don't doubt that maybe there is a majority out there who will get their majority to pass the Majority Report. At the time I just want to let you know that I would like to offer an amendment that would help the restaurant owners right now and bring this issue back in a regular session when it can fully be heard and the Labor Committee can do something that it should do for the industry, for the waitresses, in whatever way the new 118th Legislature sees fit to do. First we need some real data on the industry. I think the IRS tracking will help, but I did not feel comfortable with this coming out of committee in a hurried fashion and I would be doing a dishonor to the people that I represent in Skowhegan, Maine given the appointment of leadership if I did not take into consideration that we only act on matters that we have information on. If we can't get that data then I say we should hold it until we can. I don't think this is a situation of life or death. I believe that the amendment will address the restaurants' concerns for now and bring it back in and it really will help a lot of people. I would ask those who would like to see an amendment on to vote for the amendment when it comes along, but as far as this report, I would ask you to vote "Ought Not to Pass." Thank you.

The SPEAKER: The Chair recognizes the Representative from Sedgwick, Representative Volenik.

Representative VOLENIK: Mr. Speaker, Men and Women of the House: L.D. 1893 if enacted will be a radical shift of wage policy unprecedented in Maine history. This bill has no place in this special session. A fundamental change in Maine's minimum wage policy, which for 29 years has raised wages for tipped and nontipped employees equally, should see months of publicity, press coverage on both sides of the issue, adequate time for public testimony and thoughtful, reasoned, unhurried analysis by legislative staff and committee members. Remember, both bodies of the Legislature are expected to analyze, discuss and vote on this bill within two days of public hearing. This should not be a shotgun wedding. The next regular session is time enough for this to occur. Too quick a decision could adversely

affect over 10,000 Maine tipped employees to the benefit of their employers. In lobbying for this bill the Maine Restaurant Association has used inflammatory language to articulate their point. They say potential economic disaster is staring Maine's tipped employee businesses in the face and time is of the essence or they face a horrible dilemma and Maine family restaurants are really hurting and many will close if we do not act, and we have seen many years of shrinking bottom lines, no growth and continually rising operating costs and Maine's minimum wage and tip credit percentage has always been the same as the federal governments.

Let's look at the facts. Maine's minimum wage has not always been as low as the federal minimum wage. From 1971 to 1974, from 1975 to 1976, and from 1985 to 1991 Maine's minimum wage has surpassed the federal wage. Maine has been a leader in providing an adequate minimum wage no matter how slow the federal government has been to act. Maine has put a 50 percent tip credit into state law to ensure that tipped employees will always share in any increase in minimum wages and ensure that tipped employees see a wage rise that parallels inflation.

Now let's look at the Restaurant Association's claims of economic disaster and no growth. From 1991 to 1995 taxable sales for restaurants rose from \$1,007,000,000 to \$1,184,000,000. An increase of 17.55 percent. This represents over 21 million dollars in income above the rate of inflation. While restaurants saw a 176 million dollars increase in sales over this period, none of this increase was passed on to minimum wage tipped employees whose employer paid wage was \$2.13 an hour in 1991. It's \$2.13 an hour in 1996, and if the Maine Restaurant Association gets its way, it will be \$2.13 an hour in October of this year when the minimum wage goes up to \$4.75, and it will be \$2.13 an hour in 1997 when the minimum wage goes up to \$5.15 an hour for everyone else. Does the State of Maine want to set a precedent and radically change its wage policy so that every time the minimum wage goes up for everyone else 10,000 tipped employees will remain forever locked at \$2.13 an hour? Think of it. If restaurant owners had won this same battle in 1939 when the minimum wage went from 25 cents to 30 cents an hour, and had fought and won it again and again each time the minimum was raised, we would now have a permanent wage for tipped employees of 13 cents per hour.

No matter how well an employee is tipped, and many live below the poverty line, if the tip credit system is to have any validity, if it is to survive at all, it must not be weakened. It is an ugly precedent to eliminate an employer's obligation to increase the pay of his or her employees when inflation eats away the buying power of wages each year. This should not be the trend in America, and it must not be the trend here in Maine. Tipped employees, like other minimum wage earners, should see an annual increase tied to inflation. Instead, if this bill passes, they will see an annual decrease in wages in real inflationary terms. Inflation has averaged 2.9 percent in Maine since 1991. The buying power of \$2.13 an hour has declined such that to have the same buying power that wage would now be \$2.45 an hour, next year it would be \$2.52 an hour, and it would be \$2.60 an hour by 1998. Keeping Maine law as it stands now will bring tipped employees almost to this point of \$2.38 an hour in October, and \$2.58 an hour next year. By 1998, if the minimum wage does not increase again,

the wages of tipped employees adjusted for inflation will again be less than in 1991. If this bill passes on the other hand, tipped employees will fall further and further behind as our economy grows. Do we leave them behind? Will our rising tide raise all boats except for the tipped employee who goes to sea in a sieve?

Let's look at the cost of the rise in the minimum wage to the food service industries. As of June 1994 there were an estimated 10,510 tipped employees in food service. If paid \$2.38 an hour, instead of \$2.13 an hour, this would amount to 25 cents an hour times 40 hours times 52 weeks times 10,510 workers, or \$5,465,000 or 14.6 percent of the 37 million dollars increase in restaurant sales from 1994 to 1995. In fact this figure is far less than 5 million dollars because many tipped employees work less than 40 hours and fewer than 52 weeks, or work in seasonal restaurants. This small additional yearly income for tipped employees of perhaps \$500 each will spread out into the communities across Maine. It will be spent at corner stores and supermarkets. It will pour into the general economy and even trickle down to restaurants in increased sales of meals. What is the real cost to restaurants, that 50 percent of minimum wage, the new tipped employee wage will be \$2.38 an hour in October, \$2.58 an hour in 1997. That's 45 cents an hour more than the current wage. If a waiter serves five meals an hour, it means an increased cost to the employer of nine cents per meal. If the waiter serves 10 meals per hour the cost drops to 4.5 cents per meal, hardly disastrous.

In short this bill is a frivolous attempt by a special interest group, the Maine Restaurant Association, an industry with income running ahead of inflation, to exempt itself from normal inflationary wage increases. If this bill passes it will set a dangerous precedent. It will negatively impact more than 10,000 Maine workers, and it will push Maine ever closer to third world wage status. If this bill has any validity, and I see none, let it go through the normal legislative process in January when it can receive adequate public and press attention. I urge each of you to look out for the best interest of the workers in your districts and vote "Ought Not to Pass." Thank you.

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

Representative KERR: Mr. Speaker, Men and Women of the House: I'm truly disappointed that this bill has become a bipartisan bill. Let me retract that. I was hoping that it would be a bipartisan bill so that we could save jobs in this state. I know that I have heard on the floor of this House, and in my caucus, that we all came up here with expectations of voting on one bill, the clearcutting bill. I have heard that argument and I know that some members of this body and the other body have committed to the Governor that they would not vote on anything else but the clear-cutting issue. I understand that the forestry issue is an important one to the welfare of the state, and to the people that are employed by the state in that industry, but I take exception when I hear that my colleagues are simply turning a deaf ear to the needs of Maine's second largest industry, and probably the largest industry when you look at the total employment. I followed the process to get this bill before the Legislative Council. We have three branches of government, the Judicial, the Legislative

and the Executive. The Governor convinced many members of both chambers that clear-cutting was the only issue. I hope we are beyond that point. Today, as Chair of the Appropriations Committee, I sponsored another Governor's bill which is L.D. 1895, An Act to Authorize the Department of Human Services to Accept Federal Funds and to Make Certain Expenditures. That also was an important issue to Maine people. This issue dealing with wages and the tip credit, the reason why we are here today is the federal government did raise the minimum wage, something that I think many of us supported at the federal level, and that's the place it should begin. In 18 months the minimum wage will go to \$5.15 an hour, many of us feel that still is not high enough for people to survive and live comfortably. This issue is not a labor issue. The reason I say that, going before the Labor Committee yesterday, quite a bit of testimony, those speaking in favor and against, the unions came out and opposed this piece of legislation at the eleventh hour. What I took offense to the most about the unions, when an individual representing one of the unions stood up and said that waiters and waitresses are being treated as second-class citizens. I was appalled by that. As an employer, I employ close to 50 waiters and waitresses in the small business that I have in Old Orchard Beach. They are part of my family. They are my family. When I hear in the Democratic caucus that these people are unskilled, I am also appalled by that. People that I employ are school teachers, people who need a second job to survive because the minimum wage is not high enough for them. When I hear the good Representative from Sedgwick talk about taxable sales increasing I wish that he would only factor in the areas where tipped credits are involved, the McDonalds, the Burger Kings, the Arbys, corporate America, who are not affected by this bill. They don't have waitresses. You go up to the counter, you order your food, they give you the food, you go sit down to the table. Those individuals are making minimum wage. At no time during the testimony yesterday did anyone, including the waitress that spoke, say that they were earning less than minimum wage, and despite public perception a tipped employee can never, and I say never, make less than the prevailing minimum wage. If, for any reason, an employee tip earnings, combined with the cash wages total less than the minimum wage in any given week, the employee must be paid at least the normal prevailing wage. That's why I say it is not a labor issue.

I know that many people within my caucus believe, and I believe that the reason why we are Democrats is sometimes we feel we are the only and the best hope for those citizens that we all try to protect. As you know, I am one of those individuals that will fight, and have fought, for those people with mental illness, for Baxter School when the administration was going to cut 1.2 million dollars out of that budget. That was bipartisan support. We chose not to let that happen. This Governor has talked about a program "Plus one". What industry is the fastest industry where we will be able to hire people? All the statistics show that it is the hospitality industry where the growth is going to take place in the State of Maine. Waitresses and waiters don't work for that \$2.13 or that \$2.25 or that \$2.38. What they work for is their tips, and we know that. That's why there weren't a lot of people in

opposition to this bill. Many times we are called upon to make quick decisions. We want and need information. This is one of those times. The federal government chose to raise the minimum wage, the President of the United States signed that piece of legislation. It's a step in the right direction. As of October 1, where this debate really begins and ends, tipped employees were not addressed under the federal law. They chose not to address it because they felt that tipped employees were making well in excess of the minimum wage. That number ranges anywhere between \$6.00 and \$20.00 an hour. The Department of Labor has submitted information where tipped employees make an average of \$5.47 an hour. We know that not all waitresses and waiters report their total wage amount. I say we know that because we know that the IRS has visited over 376 Maine restaurants and demand that they sign on to what they call a Track Program which requires restaurants to become the tip police and to ensure that waitresses and waiters claim all of their tips. This bill may not be the survival for every restaurant. Some people can say just raise the price on the menu. When you raise that price on the menu, you are giving the waiter and waitress a built in increase. Generally what people do is they give a tip on the total amount of the bill. If someone is tipping 10 percent and the bill is \$25.00, the waiter or waitress is going to make \$2.50. If the restaurant raises that price and the bill comes up to \$30.00 they make \$3.00 at 10 percent of that \$30.00 price. So there are built in wage increases.

Waiters and waitresses don't work for that \$2.13 an hour. They work for their tips. I just feel that given this time and the economics that are surrounding us in this state, that there may be a risk that some restaurants may close. There may be a risk that some people may be laid off. It wouldn't be the waitresses and waiters, it would be the kitchen help. Those are the people that are truly underpaid. I want you to know those of us who are in the hospitality industry, we don't pay minimum wage. You can't hire someone for minimum wage. I'm sure if you ask any waitress that is working in a restaurant today if they would work for the minimum wage and whatever tips that they receive that they would give back to the employer that they would look at you and say no, absolutely not. So, we are not dealing with a group that is earning less than the minimum wage, or the prevailing wage. I would hope that you would support this bill and for anyone in this chamber that may be back in the 118th Legislature, if you choose to want to increase the tip credit you may do so. The same way that I chose to follow the process and go through the Legislative Council and get this bill introduced with bipartisan support. Again, I would urge your support of this piece of legislation. I look at it as a probusiness bill. I look at it as providing that safety net for those small restaurants that are barely getting by. We know that many restaurants have closed down. All you have to do is pick up the newspaper. It's not a labor issue. We are not dealing with people that earn less than the minimum wage or the prevailing wage. I would urge your support of this piece of legislation. It is important today.

In talking with an individual who owns a restaurant in Waterville, I must share this story. I will only take another minute or so. Peter Martin had indicated to me yesterday that he had just got

through meeting with the IRS. I'm like anyone else. I'm not a great fan of the IRS, but in talking with them they tried to move him on to this Track Program, and then he evaluated what this increase would cost his restaurant. He calculated that it was going to cost close to \$41,000. It's not just the wage that's a factor. You must understand you have to pay FICA. You have to pay workers comp on the total wage. So there are other factors that are built in to the cost of doing business. So, I ask you today to support this piece of legislation. Before I sit I want to ask you a question and you can think about this. Is it fair for government to mandate that business must pay one class of employees more than the minimum wage? Is that the role of government? Isn't the minimum wage supposed to be a floor and not a ceiling? I urge your support of this piece of legislation because I know that in your campaigns, in your districts, you have talked about the improvement of business. You have talked about creating jobs, and you have talked about property tax relief. If these restaurants close, or if employees are no longer employed, that's going to affect you at the municipal level. Thank you.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: I won't take a great deal of your time because I think that the good Representative from Old Orchard Beach, Representative Kerr, has expressed this very well. I would like to reemphasize that this is not a minimum wage bill. These people are benefitting from an increase in the minimum wage bill in the federal level because Maine has that 50 percent clause in its minimum wage law. The only difference is who is going to pay the 25 cents. Representative Kerr has already pointed out that many of these businesses are in rather tight restraints. We had lots of information that was given to us yesterday in the five or six hours that we spent on this bill. We had lots of documentation because of the tracking process that is now in place with the IRS. Those places that got most of their sales in credit cards are able to identify very closely what the actual wage is that these employees make. We had one lady who brought in her documented sheet for her payroll records and she has three different classifications of restaurants, people who are making \$15 an hour, \$18 an hour. This is certainly not the minimum wage. Granted, not everybody who works as a waitress makes that type of money, but they are all guaranteed the minimum wage. There is no one, if this bill is passed, there is no one who will be working as a waiter or a waitress who will be making less than the minimum wage. I think that is a very important fact.

Also I think that Representative Kerr pointed out very clearly that a lot of the increases in the food sales that have taken place in the food business come through fast food restaurants. I think it is also interesting that many documents of how much waiters and waitresses made was laid before the committee but many members of the committee just shrugged it off, did not take into consideration that information that was made available to the committee. I think that's very important. The margin that the restaurants have been working on has decreased from about 10 percent down to about 3 or 4 percent. I think that anybody who has ever been in business knows that when you are operating somewhere between a 3 and 4 percent margin

it doesn't take a very big kick in the teeth to upset the apple cart and you are out of business. The important thing to remember here is that none of these people will be making less than the minimum wage. I think I, too, did not want to come down here and consider any pieces of legislation. I think that the special session was a mistake, but I am here and because I am here I was elected to do a certain job. When a piece of legislation comes up I will vote on it. I have a little bit of a question in the back of my mind when somebody says that they will not vote on a piece of legislation. I thought that a no vote was a recorded vote. Thank you.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: I was called by a constituent of mine on this bill, L.D. 1893, who owns a small restaurant in the district that I represent. She wanted me to understand where she stood on this bill and in a very few minutes I'm sure she understood where I stood on the bill. Her arguments did intrigue me. She didn't try to tell me about waiters or waitresses who made \$15 or \$20 an hour. She knew that I wouldn't know any of them. Instead she told me that a 25-cent increase would be so marginal that it wouldn't make a difference to the waitresses anyway, but it would impact her overhead costs. I thought about this a lot and I just don't agree with that. If \$85.20 is what you are guaranteed at \$2.13 if you work a 40 hour week, then \$95.20 is what you would be guaranteed if you had the 25 cent wage increase. I think when you are making very little money, \$10 a week more is a significant amount of money. It's a lot of money. If you have a child in school \$10 a week will pay for their hot lunch program. If you have your \$10 a week, \$40 a month will pay your phone bill. Forty dollars a month pays my electric bill in warm weather, and it will until we turn on our furnace again. I asked one of the assessors in our town if \$500 a year would pick up the taxes on some of the older trailers in our town. He assured me that yes, it would. If an increase would let you pay your taxes I think that is a significant increase. A quarter an hour may not be much money to a lot of people, but to a single mother trying to raise children I think a quarter an hour is a lot of money. For me to learn that there were waiters and waitresses making \$20 and up an hour, I found frankly very depressing. It just shows me how much class there is out there, and how very little it has to do with me. I want to tell you about the waitresses that I know. Their busiest meal is breakfast. That's when the garage men and the shop workers and the retirees who couldn't get over the early-to-rise habit come in. Waitresses not infrequently substitute as short order cooks, and they get tipped in quarters. Two coffees and two blueberry muffins is going to come to \$3.32, and if you get 20 percent of that you are going to get a 65 cent tip. But mostly you will get a 75 cent tip. Nobody is living high off the hog in these small Maine restaurants. If the restaurant owners are having it tough I'll bet the waitresses are having it still tougher.

I was disappointed to learn that 3 Democrat members of the Legislative Council thought this bill was so important that they hurled it into a special session. The theme and the mantra of the Democratic party has been we are the best hope for some people

and we are the only hope for some people. Today I want to know, are waitresses people? Will the rising tide raise all boats if the person at the oars is a waitress? I don't really care what they are doing in other states. I especially don't care what they are doing in New Hampshire. I'm sure someone is going to tell us that if we raise this to \$2.38 all of our blueberry muffin and coffee trays will skedaddle across the border, and I don't think so. Of course there will be an increase in costs. That's what businesses do. They pass on their costs to their customers plus a percentage for their profit. We all know they do that. They should be doing that. So let them raise the price of their muffins 10 cents and give their waitresses a quarter. It's hardly generous. The other word that comes to my mind is chintzy. Are we serious about wanting people to stand on their own two feet? Waitresses earn a very tough living on their own two feet and we should not be begrudging them an increase in their wage. This is not a minimum wage bill. I agree with that. This is an equity bill. It's a fair play bill. Is everybody else in this country going to get an increase to match the cost of living except waitresses? This is a stand up and be counted bill. When the vote is taken, I request the yeas and nays. Thank you.

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

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Mr. Speaker, Ladies and Gentlemen of the House: This bill is definitely not a minimum wage bill. This bill is to correct an equity problem for the employers. When the minimum wage goes to \$4.75 our current law requires that waitresses earning tips be paid one half of that, that's \$2.38. This bill is listed for a tax credit. The reason for bringing it up was for a tax credit. If these employers, when they go to pay their federal tax next year, will be held responsible only for \$2.13 and they have spent \$2.38, they will lose credit of 25 cents on the federal because of this change. This will boil down so, as I understand it, they will not get FICA credit for the 25 cent differential which amounts to somewhere around four or five cents. When you multiply that out by the hundreds of people within this classification then it becomes a substantial amount of money and it becomes a substantial amount of money for even a small business that is running on a profit margin of three or four percent right now. Yesterday at the hearing we had a great deal of testimony presented by the people as to what it would cost and how it would affect them, and I think in fairness and in equity we ought to adopt this bill and not accept the current motion. Thank you very much.

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

Representative LANE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to take you to my town. I have been trying to get you there, or closer to my town, for a while, and I agree that most of these things indeed require an unhurried analysis. In my area we have about nine small restaurants. The restaurant owners aren't rich. Some of them are Democrats and some of them are Independents. They are just people like you and I

and they are trying to survive just like you and I. I asked in my area, to get a job as a waitress you have to stand in line practically because everybody knows you make good money on tips in restaurants in the area. Our businesses may be shutting down, which they are, but I will tell you we still like to eat. Perhaps one of the few things left to us is to gather at our local restaurant to have a good meal and to leave a good tip to a local waitress whom we know. I asked one restaurant owner what would this cost you? They said \$8,000 this year, \$15,000 next year. Remember they are guaranteed minimum wage. The bottom line as has been already set.

The point is if we really care about jobs we may be eliminating a few. I don't know about your community, but in my community we can't afford to lose one job. I urge you to vote against the Minority Report. Thank you.

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

Representative LEMAIRE: Mr. Speaker, Men and Women of the House: I don't want to tell you this is a bad bill, and I don't want to tell you it is an unfair bill, because I think many of you know that, but I will tell you what I came up here for. I came up for clear-cutting. I went to subcommittee meetings for months. I listened to both sides of the issue, the bill was researched. I read many pamphlets that came to my house. I watched ads on TV. It was thoroughly researched by me and by other members who are concerned about it. I had no expectations of addressing any other bill, and frankly I had a bill that I consider far more of an emergency than this bill and I didn't put it in because I felt this was important. Let me tell you a little bit about another bill that we passed last year. It was called a welfare bill. It's welfare to work. This is one of the industries in the State of Maine that women go to, 80 percent of them are wait staff and go to this kind of a job. Do they have to be skilled? Do they have to have some experience? Well, experience certainly helps. Do they have to have a formal education? No. What we are saying in the State of Maine is that we are going to train you. We are going to put you to work, and we are going to keep you working and off the welfare roll forever. I want you to think about \$2.13, think about the State of Maine about ten years down the road when the minimum wage is about \$12 and we are sort of hanging over a cliff at \$2.13. You might say that another legislative session will come in and change that. Oh yeah, I don't think so. The Restaurant Association did not pay the minimum wage. They do not pay for this bill. Why would they? They would have to pay more money to their people. I don't care if you are making \$4.57, which by the way is the Labor Department's tip report. It is reported tips, and could go 50 percent either way. Are there resort areas where they make a lot of money? Of course there are. Are there college kids that are working in those resorts? Yes, there are and they are making that money. But think about little towns in the State of Maine. You are going to go in and have a hamburger. You are going to leave 20 percent. I have been out to dinner with people that have more money than God and I have to make up the tip because I am so embarrassed. Waiters and waitresses work extremely hard for their jobs, not to mention the people that are not mentioned in wait staffs that work in hotels as bartenders, as the

housekeepers. We have forgotten about that group. That's a group that gets tips, too. Remember who we are including in this. You have 10,000 wait staff in the State of Maine, 12,000 at high season. We are not counting all of the other people that depend on tips. I frankly would not support this in this situation with two thirds. I would not support it as a majority. I would not support it ever. I think it is outrageous that all of us in here who say that we support working people are more concerned about restaurants in our districts and believe me folks, you have more waiters and waitresses in your district than restaurants. We are all looking for economic development. Think about jobs "Plus One." What did the Governor say? Did he say minimum wage? I don't think so. He said a quality job and benefits. These people do not get benefits. Many of them are single women with children. I urge you to defeat this bill. It is a bad bill and should not be here. Thank you.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: I am a legislator but I am primarily a graduate student and as recently as last summer I was a wait staff person in the beautiful district of Representative Jones'. I worked on Mount Desert Island as wait staff with my sisters and many of my friends and classmates. I will stand today to offer this is an ugly bill that flies in the face of the federal minimum wage increase and one that does not reflect well for Maine, a state that holds tourism as its chief industry. Please join me in the Minority "Ought Not to Pass" on this bill. Thank you.

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

Representative BUNKER: Mr. Speaker, Men and Women of the House: Just a couple of thoughts and ideas for you. I really think that this bill if it gets out of hand here is like we will have a tiger by the tail. I don't know if any of you really realize what the ramifications are. If we come back and really look close at the restaurants and the waiters and wait staff industry and ask for data and figures, and the IRS gets their way on the Tracker Program, I don't know if you realize how that is going to devastate both the waiters and the waitresses in this state as well as the businesses. You figure for every dollar that is going out the door in unclaimed wages and tips, what is the tax, a single person claiming zero, what is it? About thirty cents on the dollar that we have to pay in taxes to one entity or another. For every dollar that we scrutinize through this process and require that waiter or waitress to actually claim is going to cost them thirty cents. You are not going to see a long line of waiters and waitresses showing up at hearings next year and saying please look at this closer. I want you to really look at how much money I do make and collect in tips because I really want somebody to see that I'm not making minimum wage. That's not going to happen. We are going to find, in my place and in other places, I have been in many different food servicing businesses, and they make a fairly good wage, \$7 or \$8. There are coffee shops that are making near the minimum wage. There are coffee shops that are making under minimum wage and the employer is required to bring it up to minimum wage. For those small class of people that are making under

minimum wage the minimum wage hike passed in Washington will give them \$5.00 an hour, up to \$5.25 or whatever we are going up to. So those people are going to be helped by the minimum wage bill that was passed in Washington. The people that are making substantially more than minimum wage, if they are scrutinized in the Tracker Program and these people look real close at that, they are going to pay substantially more of that money they have been taking home in their pocket back. Then the employer, on the other hand, has to match those taxes. So this little issue that we are discussing here today is going to be a very small issue compared to what is going to happen if everything gets looked at and scrutinized very close and we will be sitting here wondering why our waiters and waitresses and our business owners are calling us and complaining about why we opened this can of worms up. I would recommend that we comply with the federal law. Let's make both Maine and the federal system identical and once the system moves forward from there I think that you are going to have very few complaints. Thank you.

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

Representative SAMSON: Mr. Speaker, Men and Women of the House: As a member of the Labor Committee I do not support this bill. One of the reasons is that we had the hearing yesterday, the workshops right after and we are voting on it today. In theory I don't like the bill, but I would like to have more time to at least talk to constituents back in my district. The hospitality industry was very well represented and I applaud them for being there, but the other side wasn't as well represented. Waitresses and waiters don't have an association to come here and speak for them. That's why the AFL-CIO speaks for them. There were a few other groups, including the Catholic Bishop, that is backing the waiters and waitresses on this issue. There are at least 10,000 or 12,000 people being affected in this State. Some may say \$5 or \$10 a week doesn't mean much to these people. To some people \$5 or \$10 isn't very much, to others it is. The Maine Department of Labor calculates their wages in tips at \$5.47 an hour. I don't know how accurate that is. I would like to have time to look at that. We often like to compare Maine to other states, particularly New Hampshire, or New England. Well, if you compare what these folks get in cash wages we rank sixth at \$2.13 an hour. The highest is Connecticut at \$3.67. So if you are looking at parity we are at the bottom of the barrel in New England. Thank you.

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

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

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

ROLL CALL NO. 396

Representative KERR of Old Orchard Beach was excused from voting pursuant to House Rule 19.

YEA - Adams, Ahearne, Benedikt, Berry, Brennan, Carr, Chase, Chick, Chizmar, Clark, Daggett,

Davidson, Dore, Driscoll, Etnier, Fitzpatrick, Gamache, Gerry, Green, Hatch, Heesch, Hichborn, Jacques, Johnson, Joseph, Keane, LaFountain, Lemaire, Lemke, Luther, Meres, Mitchell EH; Mitchell JE; Morrison, Paul, Richard, Richardson, Rosebush, Rowe, Samson, Shiah, Sirois, Stevens, Townsend, Treat, Tripp, Tuttle, Volenik, Watson.

NAY - Aikman, Ault, Bailey, Barth, Bigl, Birney, Bouffard, Buck, Bunker, Cameron, Campbell, Carleton, Chartrand, Clukey, Cross, Damren, Desmond, DiPietro, Donnelly, Dunn, Farnum, Fisher, Gates, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Heino, Jones, K.; Jones, S.; Joy, Joyce, Joyner, Kilkelly, Kneeland, Kontos, Labrecque, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbr, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, O'Gara, O'Neal, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Pouliot, Povich, Reed, G.; Reed, W.; Robichaud, Savage, Saxl, J.; Saxl, M.; Simoneau, Spear, Stedman, Strout, Taylor, Thompson, True, Tufts, Tyler, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor.

ABSENT - Cloutier, Dexter, Martin, Nadeau, Poulin, Rice, Stone, Truman, The Speaker.

Yes, 49; No, 91; Absent, 9; Excused, 1.

49 having voted in the affirmative and 91 voted in the negative, with 9 absent and 1 excused, the Minority "Ought Not to Pass" Report was not accepted.

The Majority "Ought to Pass" as amended Report was accepted. The Bill was read once.

Committee Amendment "A" (H-923) was read by the Clerk and adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-923) and sent up for concurrence.

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

At this point, the Speaker recognized the Representative from Wayne, Representative AULT, who was added to the quorum for the Second Special Session of the 117th Legislature.

On motion of Representative JACQUES of Waterville, the House recessed until 3:00 p.m.

(After Recess)

The House was called to order by the Speaker.

On motion of Representative GWADOSKY of Fairfield, the House recessed until 4:15 p.m.

(After Recess)

The House was called to order by the Speaker.

REPORTS OF COMMITTEES
Divided Report

Majority Report of the Committee on Agriculture, Conservation and Forestry reporting "Ought to Pass" as amended by Committee Amendment "A" (H-924) on Bill "An Act to Implement the Compact for Maine's Forests" (H.P. 1390) (L.D. 1892) (Governor's Bill)

Signed:

Senator:

Representatives:

PARADIS of Aroostook
SPEAR of Nobleboro
AHEARNE of Madawaska
PENDLETON of Scarborough
HICHBORN of Lagrange
TYLER of Windham
KILKELLY of Wiscasset
CROSS of Dover-Foxcroft
STROUT of Corinth

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-925) on same Bill.

Signed:

Senators:

Representatives:

CASSIDY of Washington
LORD of York
DEXTER of Kingfield
KNEELAND of Easton

Was read.

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

The Bill was read once. Committee Amendment "A" (H-924) was read by the Clerk.

On motion of Representative JACQUES of Waterville, tabled pending adoption of Committee Amendment "A" (H-924) and later today assigned.

COMMUNICATIONS

The following Communication: (S.P. 776)

THE SENATE OF MAINE
STATE HOUSE STATION 3
AUGUSTA, MAINE 04333

August 29, 1996

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

Dear Mr. President and Mr. Speaker:

On August 29, 1996, one bill was received by the Secretary of the Senate.

Pursuant to the provisions of Joint Rule 308.2, the following bill was referred to the Joint Standing Committee on Taxation on August 29, 1996:

Bill "An Act to Amend the Law Concerning Tax Increment Financing" (S.P. 775) (L.D. 1894) (Presented by Senator CAREY of Kennebec) (Under suspension of the rules, cosponsored by Representative DAGGETT of Augusta and Senators: HARRIMAN of Cumberland, MILLS of Somerset; Representatives: CAMERON of Rumford, GWADOSKY of Fairfield, JACQUES of Waterville, JOSEPH of Waterville, MAYO of Bath, MITCHELL of Vassalboro, POULIN of Oakland, REED of Falmouth, VIGUE of Winslow) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.)

Sincerely,
S/May M. Ross

Secretary of the Senate
S/Joseph W. Mayo
Clerk of the House

Came from the Senate, read and ordered placed on file.

Was read and ordered placed on file in concurrence.

COMMUNICATIONS

The following Communication: (H.C. 449)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002

September 5, 1996

The Honorable Joseph W. Mayo
Clerk, Maine House of Representatives
State House, Station #2
Augusta, Maine 04333

Dear Clerk Mayo:

Pursuant to House Rule 1, I am appointing Rep. David Etnier of Harpswell to replace Rep. Richard H. Thompson of Naples as a member of the Joint Standing Committee on Health and Human Services. This appointment takes effect immediately.

Sincerely,
S/Dan A. Gwadosky
Speaker of the House

Was read and ordered placed on file.

ENACTORS

Emergency Measure

An Act to Conform the Maine Tip Credit to the Federal Tip Credit (H.P. 1392) (L.D. 1893) (C. "A" H-923)

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

On motion of Representative HATCH of Skowhegan, the House reconsidered its action whereby the Bill was passed to be engrossed.

The same Representative presented House Amendment "A" (H-926) which was read by the Clerk.

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

Representative HATCH: Mr. Speaker, Men and Women of the House: This morning we passed the tip credit bill. Some of us voted on it and some of us voted against it. I have in my hand an amendment to the tip credit bill and what that would do is for the present time it would keep in line the wages that are on the book at \$2.13, even on October 1. It would do so until we meet again as a Legislature and decide whether or not we want to put the law on the books to change the Maine law, or whether or not we want to change it to the \$2.13 permanently. I think it would give us a little bit of breathing room. I have noted, and I do this with a great deal of respect, and I truly believe that the Restaurant Association and the restaurants in my district need a hand. Without a two-thirds majority in this House on this particular bill what will happen is that on October 1 the wages will go up. They will go up to the \$2.38 and then just before Christmas they will go down. My businesses have told me they can't afford the increase right now, and I understand that. I really do. I'm saying that I am willing to meet the Restaurant Association, the lobby itself, and my Republican colleagues and my Democratic colleagues who really feel this bill is important. I really

think if we are going to take and make a change like this that we ought to really look at it and we ought to wait until we come back in and have time to work the bill, work with the Restaurant Association, work with those restaurant owners and work with the waiters and waitresses. I don't think this is a cut-and-dried issue that them or you or I saw who is on the right side. I will be personally honest with you, until last Friday I was never contacted by the Restaurant Association. Maybe they didn't know I lived in Skowhegan. Maybe they didn't know who the Representative was. I talked to my restaurant owners and they never voiced any concern previously to me other than they were having a hard go of it. On Friday, when someone offered to open their books to me, that's pretty impressive. The fact of the matter is when we met as a committee we didn't have a lot of information. I know there are some here who say all the information was there. I want you to know that I don't think it was. I think this is the best of both worlds. I think taking away an increase in pay at Christmas time is not going to go over well with the restaurant owners. It's not going to go over well with the wait staff and to be perfectly honest I don't know if they will get a signature downstairs or not. I just thought that I would offer this in good faith. I talked to the Restaurant Association and they are not in favor of it but for the time being this would cover my restaurants in my area and give me time to work with them and find out what is going on and what they need. I know a lot of people don't like it. Otherwise it goes to \$2.38 on October 1 and just before Christmas they lose a quarter. Explain to somebody how they can lose \$7 to \$10 in one paycheck week after week. I really think it's a good move on our part. It will give us time to come back and revisit it. I don't think it's too much to ask of the Restaurant Association to come back and revisit this issue and give us honest facts and figures. Not to say that they are dishonest, I just think that it's a good move. I encourage you to vote for this amendment. If you don't do so then in December when people call you, that's all I can say. I have offered it in good faith. I'm going to send this to all of my restaurant owners in Skowhegan and let them know, as well as the Association. Thank you.

Representative JOY of Crystal requested a roll call on adoption of House Amendment "A" (H-926).

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

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

The pending question before the House is Adoption of House Amendment "A" (H-926). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 397

YEA - Adams, Ahearne, Berry, Bouffard, Brennan, Carr, Chartrand, Chase, Chizmar, Clark, Daggett, Davidson, Desmond, Driscoll, Etnier, Fitzpatrick, Gamache, Gerry, Green, Hatch, Heesch, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kontos, LaFountain, Lemke, Martin, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Pouliot, Povich, Richard, Richardson, Rosebush, Rowe, Saxl, J.; Shiah,

Sirois, Stevens, Townsend, Treat, Tripp, Tuttle, Tyler, Volenik, Watson, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Benedikt, Bigl, Birney, Buck, Cameron, Campbell, Carleton, Chick, Clukey, Cross, Damren, Dexter, DiPietro, Donnelly, Dunn, Farnum, Fisher, Gates, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Kilkelly, Kneeland, Labrecque, Lane, Layton, Lemont, Libby JD; Lindahl, Look, Lovett, Lumbra, Luther, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Robichaud, Savage, Simoneau, Spear, Stedman, Strout, Taylor, Thompson, True, Tufts, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

ABSENT - Bunker, Cloutier, Dore, Kerr, Lemaire, Libby JL; Paul, Poulin, Rice, Samson, Saxl, M.; Stone, Truman, Winn.

Yes, 55; No, 81; Absent, 14; Excused, 0.

55 having voted in the affirmative and 81 voted in the negative, with 14 being absent, House Amendment "A" (H-926) was not adopted.

Representative WINSOR of Norway presented House Amendment "C" (H-929) which was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Winsor.

Representative WINSOR: Mr. Speaker, Ladies and Gentlemen of the House: As the Clerk has said, this amendment simply strips the emergency provision from the original bill. The effect of this of course is to bring the federal rules in on October 1 and approximately 90 days later this bill will come into effect and reduce the tip credit back to the \$2.13. I'm offering this amendment because it is very apparent that we cannot get a two-thirds vote to make this bill immediately effective. As Representative Kerr and Representative Joy have very well explained, failure to pass this provision will have a significant effect on this industry and the 30,000 jobs that it provides. It's unfortunate that we can't persuade more of you to support this. However, in discussions with the industry they feel very strongly that they would prefer to have this bill go into effect and really require that the employers meet with the employees and decide how to proceed with this in the future. The period of time the bill would be in effect really is the time that the industry is in between major activity so that the effect will be not as great as it could be at other times of the year. I urge you to support this and I thank you very much.

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: I guess this is the first time that I have seen an amendment to strip the emergency before we have had a vote to see whether or not we had the votes. It's a new tactic that seems a little strange to me and one that concerns me for two reasons. It seems to me that the worst thing that we want to do is to let the rate go into place and then in three months change it and lower it. It seems to me that if you want to create turmoil in the tourist industry that's the way to do it. If, in fact, we are concerned about what ought to happen, we ought to be doing the reverse. Agreeing to delay for a three month period, leave this where it is today, and then let the next Legislature deal with it. Not to let it

go into effect and then automatically it would go up and then in three months go down, to me that is the worst of all possibilities. I probably ought to say that I wasn't here to vote because I was teaching an ITV class at 1 o'clock, but I intend to vote for the passage of the bill and I do so because in fact the present law, to my knowledge, guarantees minimum wage. The problem is that it is not being enforced because as I recall the law, and correct me if I should be wrong, which is a possibility, my recollection is that if over a period of eight hours, for example, you don't make minimum wage with the tip money and the \$2.13, then you have to come up to the minimum wage anyway and you must notify, or should notify the employer to make that happen. Whether or not some employers do it or don't do it, I want you to know that I do. My concern with this amendment is that it is at the wrong time and for the wrong reasons. I would hope that perhaps the Representative from Norway would remove his motion at this time and let's vote on whether or not the votes are there. Then, if the votes aren't there, fine, let's start looking at what it is that we can do, but not to start total turmoil in the industry. That, in my opinion, is the worst of all possibilities. So, if the amendment continues to be presented, Mr. Speaker and Members of the House, I would ask you to vote against it. Thank you.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: Seeing as I do not see anybody standing to comply with the request of the good Representative from Eagle Lake I would ask for a Roll Call. Thank you.

Representative LUTHER of Mexico requested a roll call on adoption of House Amendment "C" (H-929).

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

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

The pending question before the House is Adoption of House Amendment "C" (H-929). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 398

YEA - Aikman, Ault, Bailey, Barth, Birney, Buck, Campbell, Carleton, Carr, Clukey, Cross, Damren, Dexter, Donnelly, Dunn, Fisher, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Libby JD; Lindahl, Look, Lovett, Lumbr, Luther, Madore, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Robichaud, Savage, Simoneau, Stedman, Taylor, True, Tufts, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor.

NAY - Adams, Ahearne, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Chartrand, Chase, Chick, Chizmar, Clark, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Farnum, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heeschen, Heino, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Lemont, Marshall, Martin, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau,

O'Gara, O'Neal, Paul, Perkins, Pouliot, Povich, Richard, Richardson, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Spear, Stevens, Strout, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson.

ABSENT - Cloutier, Kerr, Libby JL; Poulin, Rice, Stone, Truman, The Speaker.

Yes, 65; No, 77; Absent, 8; Excused, 0.

65 having voted in the affirmative and 77 voted in the negative, with 8 being absent, House Amendment "C" (H-929) was not adopted.

Representative GERRY of Auburn presented House Amendment "B" (H-928) which was read by the Clerk.

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

Representative GERRY: Mr. Speaker, Men and Women of the House: The reason this amendment came about was when I went to my different restaurants in my district and talked with employees. Those that came from the higher paying meals said we don't mind if you don't change the minimum wage. Those that came from the lower middle, they said, "We need the extra money. So we asked you to vote against the pending bill so that we could have the increase. If, after the vote is taken that would deny the increase, would you please offer this amendment to the bill. Lots of times we are required to come in before our lunch hour, the rush hour, and prepare salads, fill napkin holders, do all of the preparatory work before hand and we only get \$2.13 an hour. We feel that if we have to do other duties than what is required of waitress work where we get the minimum wage of \$2.13 plus our tips that we feel we are entitled to get at least the full minimum wage for what ever work we do besides that waitressing." So I humbly ask that you support this measure to at least give these people that come in the extra few dollars that they could use to boost their paychecks. Thank you.

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

Representative CARLETON: Mr. Speaker, Men and Women of the House: I'm sure that this is a well-meaning amendment and I am sure that there are perhaps some abuses with regard to when people start work and whether or not they are paid and what the rules might be for when they are supposed to be paid or starting work, whether it be preparatory or not. However, this amendment comes to us without any hearings whatsoever, without any discussions whatsoever about what the existing rules might be and about whether or not there is in fact the problem. I would imagine that there are federal rules, perhaps, addressing this. There may be some state rules addressing this, all of which we know nothing about. For that reason I hope that you will vote against this amendment and then perhaps we can consider it in more fullness next January. Thank you.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: Not knowing anything about it is exactly why we should not have had this bill before us in the first place. We don't know a whole lot of things about this bill. What the amendment does I think is clear enough. They are not getting tips when they are making salad and they are not getting tips while they are filling sugar bowls. I think this is a straight forward, fair, equitable amendment. I'm going to support it and Mr. Speaker

when the vote is taken I request the yeas and nays. Thank you.

Representative LUTHER of Mexico requested a roll call on adoption of House Amendment "B" (H-928).

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 Old Town, Representative Keane.

Representative KEANE: Mr. Speaker, Ladies and Gentlemen of the House: It's been my experience in administering the Fair Labor Standards Act and other labor legislation in the State of Maine that work performed, whether it's within shift or not, is work that must be paid for at least at the minimum wage. If there is anybody that has any knowledge in that regard I would appreciate their guidance in that. If this is true then it doesn't seem to me that there is any need for this legislation and that those employees involved need to file a grievance with the Department of Labor or the Wage and Hour Division in the Contracts and Compliance Office. Thank you.

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

Representative DORE: Mr. Speaker, Men and Women of the House: I'm always amused when an attorney tells me there are probably some rules, and there may be some rules, and there is probably something on the books, because I can't think of anybody who has a greater ability than an attorney to go immediately and in the next twenty minutes find out exactly what the rules are on preparatory time and what you can do. I would be happy to table this for twenty minutes if Representative Carleton is truly concerned about the preparatory time regulations so that he can inform us about whether or not there is any way you can get a minimum wage during preparatory time. I will make that motion if you like but I can't, my apologies to the House. Thank you.

Representative LEMAIRE of Lewiston moved to table until later today pending adoption of House Amendment "B" (H-928).

Representative JOY of Crystal requested a roll call on the motion to table.

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

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

The pending question before the House is to Table until Later in today's session, pending adoption of House Amendment "B" (H-928). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 399

YEA - Adams, Ahearne, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Campbell, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Daggett, Davidson, Desmond, Dexter, DiPietro, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gooley, Gould, Green, Hartnett, Hatch,

Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Joyner, Keane, Kilkelly, Kneeland, Kontos, LaFountain, Lemaire, Lemke, Lemont, Libby JD; Lindahl, Luther, Marshall, Martin, Mayo, McAlevey, McElroy, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Ott, Paul, Peavey, Perkins, Plowman, Pouliot, Povich, Reed, G.; Richard, Richardson, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stevens, Strout, Thompson, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, Winglass, Winn.

NAY - Aikman, Ault, Bailey, Barth, Birney, Buck, Cameron, Carr, Clukey, Cross, Damren, Donnelly, Gieringer, Greenlaw, Guerrette, Heino, Jones, S.; Joy, Joyce, Labrecque, Lane, Layton, Look, Lovett, Lumbra, Madore, Marvin, Meres, Nass, Nickerson, Pendleton, Pinkham, Poirier, Reed, W.; Robichaud, Stedman, Taylor, True, Tufts, Underwood, Waterhouse, Whitcomb, Winsor.

ABSENT - Cloutier, Kerr, Libby JL; Poulin, Rice, Stone, Townsend, Truman, The Speaker.

Yes, 98; No, 43; Absent, 9; Excused, 0.

98 having voted in the affirmative and 43 voted in the negative, with 9 being absent, the motion to table until later today, pending adoption of House Amendment "B" (H-928) was accepted.

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

Bill "An Act to Implement the Compact for Maine's Forests" (H.P. 1390) (L.D. 1892) (Governor's Bill) which was tabled by Representative JACQUES of Waterville pending adoption of Committee Amendment "A" (H-924).

Representative GOOLEY of Farmington presented House Amendment "C" (H-932) to Committee Amendment "A" (H-924) which was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative GOOLEY: Mr. Speaker, Men and Women of the House: I rise to offer this amendment. It is a very important one. Here in Maine we have 6 million acres of small woodland and 100,000 woodland owners owning between 10 and 1,000 acres each. We have a valuable forest resource which I think over the last year has shown that the forest resource is the number one industry in the State of Maine and in terms of not only forest products but forest recreation, wildlife management, habitat, and water. Water, which when we go to the fountain or to turn our faucets on, the water is always there and water is a very important item in the forest today, that is readily apparent. We have at the present time an average annual growth in the Maine forest of approximately 5.1 million cords, excuse me, we have a forest industry that uses, by U.S. Forest Service estimates, 6.2 million cords of wood and the average annual growth is 5.1 million cords with a cut-to-growth ratio of 1.2 to 1. This is a very serious figure. These figures are not good. Who is out there in the forest to manage the forest but foresters? We have in the Bureau of Forestry a lack of foresters at the present time. There are eight district foresters to cover the whole State of Maine and this program was cut very drastically in 1981. There were something like 21 district foresters in 1981 and that has been cut back to where today there are 8 district foresters covering the whole State of

Maine. We need to have on the average one per county. I think I am thinking in terms of three in Aroostook County and then in the other counties, some counties would have two, but an average of one per county. We need to have a managed forest.

With 100,000 woodland owners out there there are consulting foresters who work with woodland owners and there are industry programs which work with woodland owners, but the problem is that there is so much work to do to better these figures which I have just given you. We do not have enough public employed foresters out there to handle, we need more public foresters to handle working with municipalities, education for owners, working with loggers, and also for the regulatory process. So, those are the main reasons why we need to expand this program and that is why I am offering this amendment. Thank you.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: With all due respect to Representative Gooley, who I much admire, particularly on this issue and he has worked very hard on this issue, there are two things I would like to point out in this amendment which I think make it fatally flawed. First, while I don't disagree with the fact that 16 field foresters would be helpful, by assigning one to each county we tip the balance so that the large counties, in fact, are under represented and the smaller counties, in fact, have possibly an excess in terms of field foresters. So, I think by saying that a forester must be assigned to each county is, in fact, not the proper way to go about it.

The other issue that concerns me greatly has to do with municipal ordinances. One of the things that we worked very hard on this bill, and also hard on in committee over the last two years, was assuring that, in fact, the rights of land owners, be they absent land owners or resident land owners, and the rights of communities were both protected in a reasonable way. In the bill before you there is a statement that says municipal ordinances may not be capricious or arbitrary and must have means appropriate to the protection of public health, safety and welfare. That language is the language that the court uses to assess home-rule issues in every other case. If we link the municipal ordinances to generally accepted silvicultural practices, part of what we are doing is linking the municipal ordinance to an ever changing fact. What is acceptable today in terms of silviculture may not be acceptable a year from now. It may not be acceptable six months from now. Those kinds of things do change. Every time there is a change like that every municipality that has an ordinance on forest harvesting would need to go back and redo that because they have to be in compliance with the definition that is set about in law. So, maintaining the language that says they may not be unreasonable, arbitrary or capricious actually is better language because that's the standard that the Judiciary has used since 1970 to judge home-rule cases and that's the language the people within the municipal communities use as their standard.

To create a whole new standard to judge municipal ordinances is not going to be beneficial to communities and I think it is going to confuse the

issue even more. I would hope you will vote against this amendment. Thank you.

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

Representative DEXTER: Mr. Speaker, Men and Women of the House: First of all for the record, this never was intended for one for each county. It is supposed to be left up to the discretion of the Director of the Bureau of Forestry. I want to make sure that is on the record. Another part of this amendment, as I read it, is the audit board. The Governor, under this amendment, would appoint three members, the President of the Senate would appoint two, and the Speaker of the House would appoint two. Presently the Governor appoints all seven members, which would be fine with the present Governor but he won't be here forever. I just don't quite follow the logic of changing the generally accepted silvicultural practices. They are still acceptable practices today. They will be acceptable a month from now, a year from now or ten years from now. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative WINN: Thank you. Is it possible that an amendment that might correct this law might be forthcoming? When I was listening to my constituents and trying to research this area around the state one of the key issues that kept coming again and again for me was the issue that the State has supposedly hired foresters to oversee the existing laws but that never happened and we never funded those positions and if we had funded those positions a lot of the laws would have been implemented and things might have been a little bit better than they are today. What I am asking is is there anyway that we can work this out so that we could come up with something that I think the people that intended it to happen, that for some reason the wording doesn't say what the intention was, and possibly take out the area that affects the municipalities and still ensure the funding for the foresters? Thank you.

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

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: There are a lot of good things in this amendment, but the item that I have a problem with is the part on the silvicultural practices and why I have a problem with that is I liked this yesterday. I do like it, in fact I made a motion in committee yesterday to put this part of the amendment in the whole package, but through a discussion yesterday we found exactly as Representative Kilkelly explained the wording in the pact as it was. I don't have it right in front of me, but that has been proven in courts and that is what they need to fall back on. I realize this reads a lot better to the ordinary people, but the municipalities would have a problem with it holding anything up in court. Because of that I do have a problem with it. I have no problem with the other parts. I would like to see more foresters out

there. I think we need them, although I think we are making improvements with the education part of the compact. So, because this is in here and we discussed it yesterday, I just cannot in good conscience vote for it. Thank you.

The Chair ordered a division on adoption of House Amendment "C" (H-932) to Committee Amendment "A" (H-924).

A vote of the House was taken. 41 voted in favor of the same and 69 against, subsequently, House Amendment "C" (H-932) was not adopted.

Representative JACQUES of Waterville presented House Amendment "B" (H-931) to Committee Amendment "A" (H-924) which was read by the Clerk.

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

Representative JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I hope that the final adoption of this amendment will put an end to a long and lonely road that I have travelled in the last six weeks. What this amendment does is refocus the attention of this compact back on an issue that it should have been focused on in the very beginning, and that is the impact of clear-cutting and forest practices on the cold water fisheries in this state, and most predominantly native brook trout. When the compact was first reported out I looked through it and one of the original versions of the discussion group talked about the protection of the cold water fisheries in this state and I prematurely applauded that and thought they were going down this road and it was a wonderful thing. Then somewhere between the June 14 version and the June 29 version it was struck out. A lot of attention was paid to the wildlife and what impact clear-cuts have on wildlife. Men and women of the House clear-cuts have great impact on some wildlife and not so great on others. In the overall scheme of things I think wildlife will adapt to clear-cuts a lot better than the fisheries will. All along during my discussion, my discussions with the large companies, the Governor, everybody said we understand what you want to do. We understand that this is something we can be doing and we might be doing and we want to do. So I took the time to go down to the Fish and Wildlife Department, strangely enough the place where by mandate and by law they are responsible for looking after the critters and the fish and wildlife in this state, and I asked them how much input did you have on this compact? I was told none. As a matter of fact I was told they weren't even invited to the table, which kind of surprised me. I was a little critical of the Commissioner for not being a little more assertive in being involved. I went to the people in charge of the wildlife department and the fisheries department and I said what should we strive for. Their answer to me was, "We don't need anymore rules and regulations. We have some things going on," and I may talk about some of those a little later during the debate on this compact, but "we have some things going on with some of the land owners right now that are great, far reaching, certainly extremely important. What we would like to see is you and the Legislature not only reaffirm that but encourage that and talk about that and put some language in this compact and this bill that doesn't add rules and regulations and establish new laws, but recognizes that cold water management is very important when you start talking about clearcuts in lumber operations." I don't think I

have to spend any time, to any of you who spend any time in the woods, talking about what has happened to our native brook trout population. I don't think I have to spend time talking about opportunities to go out and catch them trout. I had lunch with Representative Jones today and most of the lunch was spent telling me about his seven year old daughter catching her first 16-inch trout. I told him I still remember the first native brook trout I caught, where I caught it and when I caught it. I was about six years old. It was Old Misery Stream near Brassway Lake. I also told him I'm sorry to say I don't remember my first date. I remember I had one, but I don't remember who she was and I don't remember where we went and I don't remember, unfortunately, what we did, but I do remember the first brook trout I caught.

We can talk a lot about the war on drugs and spending this kind of money and the things we want to do to keep our young people away from these drugs. One thing you can do to help keep them away from drugs is encourage them to do what I used to do. Every spare minute I had I was trying to catch a fish. If there was a hole with more than a gallon of water in it I was trying to catch a fish out of it. Between spending my time fishing and playing football and playing hockey, I didn't have any time for drugs. So, here's a cheap investment you can make above and beyond all the rhetoric. You give them kids an opportunity to go up and catch them native brook trout that I used to catch when I was a kid, that Representative Jones' daughter had the opportunity to catch and we will really be doing something to keep those young people going in the right direction. What this amendment does is simply sets up a cold water fisheries working group that will help establish bench marks and goals, and make recommendations to the bigger overall party of this thing, the auditing group, on how we are going to work to protect and preserve, and I hope restore some of those cold water fisheries across this state. It will be a cheap investment for a big return.

What this group is set up of, but is not limited to, someone who is a representative of the Department of Inland Fisheries and Wildlife, strange that that would be on there, having expertise in cold water fisheries management, a representative of a statewide association of sportsmen and women, it says sportsmen but I am going to fix that in respect to Representative Jones' daughter, a representative of any Maine organization engaged in the stocking, restoration or protection of cold water fisheries, a representative of the University of Maine System with expertise in aquatic ecology, they want science, we want science, and a representative of the Maine Forest Products Council. That's the basic core. There are many other groups that can be added on to this working group, and hopefully they will start to work right away and truly we can really say that if we include this in the compact that we now have a compact that is better than the current practices, better than the initiated referendum because it will concentrate, men and women of the House, on an area that is really, honestly, largely impacted by cutting operations in this state.

I must add that everybody involved except for the janitor of this building who I could not find this morning has signed off and agreed to this amendment. I checked and double checked and triple checked and made sure that everybody that I could talk to was in support of this amendment. Everybody told me that

they are, from the Governor on down. So, hopefully we will put this amendment on and my long journey, which started out with language in a compact, language in the bill, sidebar, addendum, letter of agreement, is ultimately down to this very small, very conservative amendment that does not force any more rules and regulations but encourages and gives the legislative stamp of approval on what the companies are doing that are doing it right, and hopefully peer pressure will cause the companies that aren't doing it right to jump right in and voluntarily, without government over their head, without rules and regulations, do what is right for your kids and your grandkids. I urge the adoption of this amendment and I request the yeas and nays. Thank you.

The same Representative requested a roll call on adoption of House Amendment "B" (H-931) to Committee Amendment "A" (H-924).

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I regret that the amendment that is before you needs to be put on in this fashion. It was my hope that it could have been included in the bill yesterday. There was some confusion and it wasn't. One of the things that I would like to add to what Representative Jacques has said is that there is also a very serious economic impact in terms of this issue. My son just got back from a trip to Canada to go brook trout fishing. I know hundreds of other people who are, in fact, leaving the state in order to go fishing. Those are economic dollars and economic activity that we could have in this state as long as we protect this resource. I think there is a serious economic impact, as well as the obvious impact that we would all like to see maintained in terms of having a healthy aquatic environment for brook trout. I would urge you to vote for this amendment and I would hope that it would make it into the compact. Thank you.

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

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

The pending question before the House is Adoption of House Amendment "B" (H-931) to Committee Amendment "A" (H-924). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 400

YEA - Adams, Ahearne, Ault, Bailey, Barth, Benedikt, Berry, Bigl, Birney, Bouffard, Brennan, Buck, Bunker, Cameron, Campbell, Carleton, Carr, Chartrand, Chase, Chick, Chizmar, Clark, Clukey, Cross, Daggett, Damren, Davidson, Desmond, DiPietro, Donnelly, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Guerrette, Hartnett, Hatch, Heesch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemaire, Lemont, Libby JD; Lindahl, Look, Lovett, Lumbr, Luther, Madore, Marshall, Martin, Marvin, Mayo, McAlevy,

McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nass, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Pouliot, Povich, Reed, G.; Reed, W.; Richard, Richardson, Robichaud, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stedman, Stevens, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tufts, Tuttle, Tyler, Underwood, Vigue, Volenik, Waterhouse, Watson, Wheeler, Whitcomb, Winglass, Winn, Winsor.

NAY - Aikman.

ABSENT - Cloutier, Dexter, Lemke, Libby JL; Poulin, Rice, Stone, Truman, The Speaker.

Yes, 140; No, 1; Absent, 9; Excused, 0.

140 voted in the affirmative and 1 voted in the negative, House Amendment "B" (H-931) to Committee Amendment "A" (H-924) was adopted.

On motion of Representative JACQUES of Waterville, tabled pending adoption of Committee Amendment "A" (H-924) as amended by House Amendment "B" (H-931) thereto.

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

An Act to Conform the Maine Tip Credit to the Federal Tip Credit (H.P. 1392) (L.D. 1893) (C. "A" H-923) which was tabled by Representative LEMAIRE of Lewiston pending adoption of House Amendment "B" (H-928).

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

Representative GERRY: Mr. Speaker, Men and Women of the House: I'm going to withdraw my request for this amendment for two reasons. One is it is true what the good Representative has said, that we haven't had a public hearing on this process, so we don't know how really necessary or not necessary this is. So, what I am going to do, like I said, I am going to withdraw the bill. They could not show me in statute because it's not in statute exactly what I want. Because at this present time, without the public hearings and everything else, it's going to be another nightmare for all of the businesses, so I am going to bow to different counsel that I have got and, like I said, pull the bill and come back in January, whether I get elected or not, get it somehow submitted and have it relooked at. I thank you for your indulgence.

Representative GERRY of Auburn withdrew House Amendment "B" (H-928).

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-923).

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

Representative MARTIN: Mr. Speaker, Men and Women of the House: I asked a question earlier in the course of the amendment that we dealt with and I

thought I was right and I went out and checked to make sure that I was. First of all I want to say from my point of view that this is not a minimum wage bill. It has nothing to do with the minimum wage. It dealt with the people that are in the back room of a restaurant that are, in fact, getting minimum wage and would raise that. That would be, in my opinion, a separate question. As I understand the bill and the issue it is a question as to whether or not you are going to deal with raising this \$2.15. Frankly I want to point out that it doesn't make any difference because at the end of the day that waitress or waiter, and I'm sure there is a neutral term but I don't know what it is, the issue is whether or not they have made the minimum wage, the new one or the old one. In combining the two figures together, if there is a problem it is in reporting. The reporting issue must be dealt with under the law by the waiters or the waitresses. It is also the responsibility of the restaurant owner to see that it is complied with and I understand that both of those are fairly difficult. But in reality the question is whether or not they have made the minimum wage in the combination of the two. If it has not been made then the owner of the establishment must pay the difference. How someone can now transport that into a minimum wage issue I don't know.

If this bill were to say that the minimum wage is X and the federal minimum wage is for all employees is set, that would be another question, but that is not the question before us. I firmly believe after listening to everything today that it's a little bit of what used to be called in the good old days of legislation a red herring issue, because after looking at it I am totally convinced that it is not a minimum wage question. For those of you who know me and who have been through the minimum wage debate, you know my position on minimum wage and I don't need to restate it. So I am going to ask everyone in this body to vote for final enactment tonight, because the last thing I want is a raise that is being given for three months, for whatever it is that we are supposed to be giving or not giving, and then the confusion that develops. To me that is the worst of all worlds. In the meantime if someone can figure out that it is, in fact, the minimum wage issue, let's bring it back in January for those of you who return, or I should say for those of us who return.

I would point out, based on what I am saying to you tonight, that I see absolutely and do not see this as a labor issue. I do not see this as a minimum wage issue. If someone can prove to me that this is going to decrease the money that waiters or waitresses are making then I am willing to listen. So, I apologize to those who had to sit through a hearing and all of that, but I wasn't here and I understand all that. That's where I am now, after figuring out what the law is and figuring out what transpired. Thank you.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: If the good Representative from Eagle Lake had not been teaching school he would have known that most of us have conceded that this is not a minimum wage issue. This is a fairness issue. It is an equity issue. All over the country people who work for hourly rate wages are going to get an increase in their wage, except waitresses. It is, in

fact, a woman's issue. I will be voting no. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sedgwick, Representative Volenik.

Representative VOLENIK: Mr. Speaker, Men and Women of the House: This issue is a labor issue and it is a minimum wage issue. If an employee makes \$2.13 an hour and tips, at the end of the day the employer will have to make up, if that person does not make enough tips, that employer will have to make up the difference to the minimum wage, whatever that may be. However, if, when we have inflation, if that employer only pays \$2.13 now, he is really paying less every year that he only pays that \$2.13. We could carry that out to an extreme. We could say that perhaps next year the employer should only pay \$1.50 and because the tipped employee will make enough to make up for the minimum wage that that is fair. The next year we could say the employer will only have to pay 50 cents an hour because the tipped employee will make up the difference in his or her tips and that would be fair, too, I presume. We could take that a step further and say that the employer has to pay nothing if the tipped employee can show that he or she has made an adequate amount in tips. We could possibly carry that one step further and say that the tipped employee should have to pay the employer for the privilege of working at this fine restaurant to make the tips which are far above the minimum wage. That argument reaches the absurdity of trying to limit the amount you pay a tipped employee as a minimum wage when we are faced with a yearly increase in inflation. The inflation rate has been on the average of 2.9 percent over the last four years. Restaurants have seen an increase in their income over this period of time. They have seen a great increase over the inflation rate. They have passed none of this on to their employees in employer paid wages. Thank you.

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

Representative LUTHER: Mr. Speaker, Men and Women of the House: I also want to point out that if they get this for three months, that is going to be roughly \$120. I don't know about you, but I wouldn't give away \$120. The only turmoil there is going to be is for those of us here who have to go home and explain why we wouldn't give them this raise. 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. 401

Representative KERR of Old Orchard Beach was excused from voting pursuant to House Rule 19.

YEA - Aikman, Ault, Bailey, Barth, Berry, Bigl, Birney, Bouffard, Buck, Bunker, Cameron, Campbell, Carleton, Carr, Chartrand, Chick, Clukey, Cross, Damren, Desmond, Dexter, DiPietro, Donnelly, Dunn, Farnum, Fisher, Gates, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Heino, Hichborn, Jones, K.; Jones, S.; Joy, Joyce, Joyner, Keane, Kilkelly, Kneeland, Kontos, Labrecque, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, McElroy, Murphy, Nadeau, Nass, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Pouliot, Povich, Reed, G.; Reed, W.; Robichaud, Rosebush, Savage,

Saxl, M.; Simoneau, Spear, Stedman, Strout, Taylor, Thompson, True, Tufts, Tyler, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor, The Speaker.

NAY - Adams, Ahearne, Benedikt, Brennan, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Dore, Driscoll, Etnier, Fitzpatrick, Gamache, Gerry, Green, Hatch, Heesch, Jacques, Johnson, Joseph, LaFountain, Lemaire, Lemke, Luther, Meres, Mitchell EH; Mitchell JE; Morrison, Richard, Richardson, Rowe, Samson, Saxl, J.; Shiah, Sirois, Stevens, Townsend, Treat, Tripp, Tuttle, Volenik, Watson.

ABSENT - Poulin, Rice, Stone, Truman.

Yes, 101; No, 44; Absent, 4; Excused,

1.

101 having voted in the affirmative and 44 voted in the negative, with 4 being absent, and 1 excused, (a two-thirds vote being necessary) the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

On motion of Representative GWADOSKY of Fairfield, the House recessed until 8:15 p.m.

(After Recess)

The House was called to order by the Speaker.

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

Bill "An Act to Implement the Compact for Maine's Forests" (H.P. 1390) (L.D. 1892) (Governor's Bill) which was tabled by Representative JACQUES of Waterville pending adoption of Committee Amendment "A" (H-924) as amended by House Amendment "B" (H-931).

Representative HEESCHEN of Wilton presented House Amendment "F" (H-935) to Committee Amendment "A" (H-924) which was read by the Clerk.

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

Representative HEESCHEN: Mr. Speaker, Men and Women of the House: There has been a lot of criticism that the referendum, the citizen's initiative, is flawed and overly complex and very confusing. Frankly I agree that there are a lot of problems with it. I think that the Legislature should and will amend it if it is passed. If I were to be in the Legislature I certainly would support amending it if it passes. I think that the Legislature should think very carefully before sending a second flawed piece of work to the public to vote on. It's one thing to criticize the Green Party for the referendum, it's another to compound the problem. I do believe that the forest compact, the bill we have before us, is fundamentally flawed from process to product. We are being asked to rush through this. Something that has supposedly taken months of delicate negotiations to come up with, we are expected to do something right away. The industry has said in their campaign that this isn't about clear-cuts. Read the bill for yourselves. There are a whole lot of other problems here. I hope they are preparing to send out all 23 pages of the forest compact bill for the people to read for themselves, too. I believe the Legislature owes it to

the people of the state to send out a simple question, stripped of the crippling language.

The amendment before you retains the compact definition of clear-cutting but it puts out to referendum the question that about 58,000 citizens thought they would be voting on, a simple question on clear-cutting. I lay it before you and I ask for your support. Thank you.

Representative SPEAR of Nobleboro requested a division on the motion to adopt House Amendment "F" (H-935) to Committee Amendment "A" (H-924).

Representative HEESCHEN of Wilton requested a roll call on adoption of House Amendment "F" (H-935) to Committee Amendment "A" (H-924).

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 Adoption of House Amendment "F" (H-935) to Committee Amendment "A" (H-924). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 402

YEA - Adams, Chartrand, Hatch, Heesch, Johnson, Jones, K.; Lemke, Richardson, Volenik.

NAY - Ahearne, Aikman, Ault, Bailey, Barth, Benedikt, Berry, Bigl, Birney, Bouffard, Brennan, Buck, Bunker, Cameron, Campbell, Carleton, Carr, Chase, Chick, Chizmar, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dexter, Donnelly, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gerry, Gooley, Gould, Green, Guerrette, Hartnett, Heino, Hichborn, Jacques, Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemaire, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbr, Luther, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Murphy, Nadeau, Nass, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Povich, Reed, G.; Reed, W.; Richard, Robichaud, Rowe, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stedman, Stevens, Strout, Taylor, Townsend, Treat, Tripp, True, Tufts, Tuttle, Tyler, Underwood, Vigue, Waterhouse, Watson, Wheeler, Whitcomb, Winglass, Winn, Winsor.

ABSENT - Clark, Cloutier, DiPietro, Dore, Driscoll, Gates, Gieringer, Greenlaw, Kerr, Morrison, Poulin, Pouliot, Rice, Rosebush, Samson, Stone, Thompson, Truman, The Speaker.

Yes, 9; No, 122; Absent, 19; Excused, 0.

9 having voted in the affirmative and 122 voted in the negative, with 19 being absent, House Amendment "F" (H-935) to Committee Amendment "A" (H-924) was not adopted.

Representative HEESCHEN of Wilton moved that the House adjourn until 8:00 a.m., Friday, September 6, 1996.

The same Representative requested a roll call on his motion to adjourn.

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 Adjournment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 403

YEA - Buck, Cameron, Campbell, Chartrand, Clark, Dexter, DiPietro, Driscoll, Gieringer, Greenlaw, Hartnett, Hatch, Heesch, Johnson, Jones, K.; Joy, Kilkelly, Kneeland, Labrecque, LaFountain, Lane, Layton, Lemke, Lemont, Libby JD; Lumbr, Luther, McElroy, Meres, Nass, Pendleton, Plowman, Reed, W.; Richardson, Rosebush, Saxl, J.; Stedman, Treat, Tuttle, Vigue, Volenik, Wheeler.

NAY - Adams, Ahearne, Aikman, Ault, Bailey, Barth, Benedikt, Berry, Bigl, Birney, Bouffard, Brennan, Bunker, Carleton, Carr, Chase, Chick, Chizmar, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Donnelly, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gerry, Gooley, Gould, Green, Guerrette, Heino, Hichborn, Jacques, Jones, S.; Joseph, Joyce, Joyner, Keane, Kerr, Kontos, Lemaire, Libby JL; Lindahl, Look, Lovett, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, Mitchell EH; Mitchell JE; Murphy, Nadeau, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Perkins, Pinkham, Poirier, Povich, Reed, G.; Richard, Robichaud, Rowe, Samson, Savage, Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stevens, Strout, Taylor, Townsend, Tripp, True, Tufts, Tyler, Underwood, Waterhouse, Watson, Whitcomb, Winglass, Winn.

ABSENT - Cloutier, Dore, Gates, Morrison, Poulin, Pouliot, Rice, Stone, Thompson, Truman, Winsor, The Speaker.

Yes, 42; No, 96; Absent, 12; Excused, 0.

42 having voted in the affirmative and 96 voted in the negative, with 12 being absent, the motion to adjourn was not accepted.

Representative HEESCHEN of Wilton presented House Amendment "E" (H-934) to Committee Amendment "A" (H-924) which was read by the Clerk.

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 Wilton, Representative Heesch.

Representative HEESCHEN: Mr. Speaker, Men and Women of the House: The guidelines in the forest compact bill on clear-cutting are changed but they remain pretty much as one-dimensional a solution as the current law. The stocking levels proposed are really only appropriate for hardwood. The 45 square feet basal area, is still below the minimum that is suggested and this is repeated in the Council on Sustainable Forestry Management's reports

suggestion for nonregenerative harvest. That is not clear-cuts, the B level. The recommended level is the so-called B line which relates the square footage of basal area to the number of trees on a particular site. For four and a half inch hardwood, if you follow the B line, we should have 55 square feet in here instead of 45 square feet. So the forest compact's 45 square feet is somewhere between the B line and the C line, which represents the absolute rock bottom for a manageable stand for a nonregeneration stand.

The amendment before you proposes standards for hardwood, retains the 45 square feet, which is again between the B line and C line, and provides standards for mixed wood at 60 square basal area and softwood at 80 square feet. Note that those are below the B line level, which is 55, 80 and 100. I believe it's a change that would could make improvements in the residual stands of the non-clear-cut areas in the forest and I hope you will support it. I request a roll call.

Representative HEESCHEN of Wilton requested a roll call on adoption of House Amendment "E" (H-934) to Committee Amendment "A" (H-924).

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

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative GOOLEY: Mr. Speaker, Men and Women of the House: I rise in opposition to this amendment. Although the intent is honorable that to increase clear-cutting, right now it is 30 square feet, as proposed it is an increase to 45 square feet, and even though when we are talking about the A line, B line and C line, and C line is understocked, there has to be some minimums placed here which are reasonable. I really feel that increasing it beyond the 45 square feet is a disservice to the land owners who would have to live with this. It would really be unpalatable.

I did pass out an information brochure earlier this morning about the basal area definition, and I did talk about understocked, fully stocked and overstocked stands. When it comes right down to it, in a selection type cut, understocked stands in softwood would be somewhat, anything like in hemlock under a 100 could be understocked, spruce and fir under 90 square feet would be understocked, but in a harvest operation to put this in law, the 45, 65 and 80 square feet, it really would be a real disservice to the owners of the land. Thank you.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I think it's important to point out two things about the bill that is before you. First of all, it does increase basal area by a third. We are going from 30 feet to 45 feet. Second, it does not allow trees that are less than four and a half inches to be part of that formula. The current formula at 30 feet does allow trees as small as one inch to be included in that basal area

formula. So, there are two things that we have done. I believe they are both significant. They have been agreed upon and it is an important part of the compact. I would urge you to vote against the pending motion. Thank you.

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

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

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

Representative CHASE: To anyone who is involved with the compact, does the current Forest Practices Act segregate basal area by tree type? If it does, why did we change it for the compact? Thank you.

The SPEAKER PRO TEM: The Representative from China, Representative Chase has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Wilton, Representative Heesch.

Representative HEESCH: Mr. Speaker, Ladies and Gentlemen of the House: To the Representative from China, the current law does not distinguish between types of stands, hardwood, softwood or mixed wood. The compact represents no change. If I may continue, the proposed amendment would make that distinction because as the Representative from Farmington noted, the C line is understocked, and if you compare the C line for four and a half inch trees you find that the hardwood C line was about 35 or slightly more basal area square feet, so 45 is above that. For mixed wood the C line for four and a half inch trees is about 55, so the proposed compact will be below that. For soft wood the C line is about 60 square feet for four and a half inch trees, and again the 45 basal area square feet is below the line that is considered understocked for nonregeneration stands, that is not clear-cut. Thank you.

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

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: If you had the opportunity to attend all three of the hearings that we had last week, a lot of the testimony we had was that even at 45 basal feet people were upset because they felt that we were taking too much from them. If you increase that any more than 45 basal square feet everybody across the state would be after us. I'm telling you this is a bad thing and I would urge you to defeat it. Thank you.

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

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

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

Representative KEANE: Thank you. To the good Representative from Wilton. My problem with this amendment is under what auspices and what credentials have the people that devised this change acted? Are they professional foresters? Who is presenting these changes to us to a compact that has evidently been reviewed by very professional people in the field? I need to know under what auspices and what professional credentials this is being submitted. Thank you.

The SPEAKER PRO TEM: The Representative from Representative Old Town has posed a question through the Chair to the Representative from Wilton,

Representative Heesch. The Chair recognizes that Representative.

Representative HEESCH: Mr. Speaker, Men and Women of the House: The numbers actually come from the bill that we had last year, L.D. 1347. Those numbers came from foresters. I would have to go back to the committee notes to tell you who was involved in that. It also comes from reading the report of the Maine Council of Sustainable Forest Management, the Governor's Council, their recommendations for B line as the minimum for regeneration standards. So, it wasn't just pulled out of the air. I suppose you could say it's just a back-room deal, as the compact is, because it wasn't something that was a big public discussion coming up with these. I feel it makes a minor change to this bill that could have major positive implications for our forests. I should note also, someone else had asked about restocking standards, the alternative in the compact is if you have a well distributed stand of five foot saplings you don't have to meet the basal area.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "E" (H-934) to Committee Amendment "A" (H-924). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 404

YEA - Benedikt, Green, Heesch, Johnson, Jones, K.; Richardson, Volenik.

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

ABSENT - Guerrette, Lemke, Luther, Poulin, Pouliot, Rice, Stone, Truman, The Speaker.

Yes, 7; No, 134; Absent, 9; Excused, 0.

7 having voted in the affirmative and 134 voted in the negative, with 9 being absent, House Amendment "E" (H-934) to Committee Amendment "A" (H-924) was not adopted.

Representative DEXTER of Kingfield presented House Amendment "G" (H-937) to Committee Amendment "A" (H-924) which was read by the Clerk.

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

Representative DEXTER: Mr. Speaker, Men and Women of the House: I hope I have it right this time. All this does now is keep the service foresters in there, sixteen of them, spread out over the entire great State of Maine at the discretion of the Director of

the Forest Service. The other one is the makeup of the Audit Board. The Governor appoints three, the Speaker of the House two, and the President of the Senate two. I hope I have all the objections out. I'm a little scared after that last vote. Thank you.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: This amendment certainly is somewhat changed from the last time. There is one thing that I would like to point out. The compact that is before us is an agreement between a number of people. Each and every piece of it does make some sense. The committee listened for three days, two hearings each day, and then spent two days in work sessions. The board being appointed by the Governor, and only by the Governor in consultation with the Speaker and the President, is a fairly unique situation. There are some other unique situations in terms of that board. The board is going to be working on a process of unanimous vote. The board is going to be working toward consensus. A lot of people said that can't be done. It can be done because that is how the compact got to us in the first place. People that are very, very diverse sat down and worked through difficult issues. The concern about having a board that was either representing specific concerns or a board that was appointed and answerable to various parties is that it would be much easier for them to line up in support of their individual folks, whether the folks they represented are the folks that are appointed by them, and that it would be more difficult to come to agreement. The compact before us represents an agreement between folks as diverse as the paper companies and the Natural Resources Council, the large land owners and Maine Audubon. Those people got together and they hammered through a process in which if one of the people in that group said no they all had to go back and work through it again until they all agreed. They did that. They were successful in doing that. They believe that they can be successful in doing it in the future. This throws a monkey wrench in that process. It does not allow them to continue a process that they have begun. A process that, in fact, has been proven to work, and a process that has some significant capacity for making a change in how we create policy in this state, because everyone will be on board. I would urge you to vote against this amendment and to leave the compact in tact as it is. Thank you.

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

Representative MERES: Mr. Speaker, Ladies and Gentlemen of the House: I have been very patient today and I haven't said much. I have been waiting for an opportunity to bring together the things that have been most on my mind. At this particular point in time I would like to express myself in the form of frustration and disappointment and that is because I have heard once again the onerous rationale that says that we here in this Legislature, representing our constituents, have got to maintain some sort of code that says that we cannot tamper, tinker or oppose a compact that was generated in secret by people who did not necessarily represent the philosophies of my district, or anyone else. I have a contract with the people that elected me to make sure that their voices

were heard. I have had more time than most of you to go and do my homework on this issue. I have been to meetings where I wasn't invited. I flew over the area with WINGS. I was on the committee that went to the hearings and I went to the workshop, so I have walked the walk and I think I have a right now to talk. What I heard at each one of these levels was don't tinker with the compact, don't tinker with the stake holders, don't have a point of view, don't express yourself because you might ruin it. Baloney. I'm here to represent people and I think this amendment has validity and I think it ought to be talked about on its merits. Every single constituent that contacted me complained about the fact that we didn't have the foresters there when they needed them. They told me that it would have made a big difference. I also feel that consensus is wonderful, but also it is important to be able to say that once in a while you disagree. You don't always have to have unanimous consent to be a team player. So, I want to say to you here, now, that I totally support the amendment that is on the floor and I totally resent the implication that we have to follow a compact that was not ours to make. Thank you.

The Chair ordered a division on adoption of House Amendment "G" (H-937) to Committee Amendment "A" (H-924).

A vote of the House was taken. 78 voted in favor of the same and 45 against, subsequently, House Amendment "G" (H-937) to Committee Amendment "A" (H-924) was adopted.

Representative GWADOSKY of Fairfield presented House Amendment "D" (H-933) to Committee Amendment "A" (H-924) which was read by the Clerk.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I am offering House Amendment "D" as a result of several conversations with Clerk, Secretary and joint discussions with members of leadership. Based on the Supreme Court ruling earlier today that put us in somewhat of a unique situation in that we had to create a new type of document, or a new type of instrument, to facilitate the process of submitting a competing measure to the voters. This amendment changes the form of L.D. 1892 to a Resolution pursuant to the Constitution. It makes no substantive changes to the bill as an act. It simply changes it to a resolution and the amendment changes the title to conform to this change. The amendment removes the enacting clause and substitutes a resolution clause because the court has ruled that the Legislature in and of itself cannot enact a bill that is going to be a competing measure. That is a right only given to the people by the choice they make in November. So this amendment substitutes the word resolution for the word act in those parts of the bill that is unallocated law. It does not make any substantive changes to the bill. It simply changes the type of instrument. It still will require a second reading, and come back for enactment, like any other item that we typically use. It will have to have two readings and enactment in the Senate. It doesn't change the two-thirds majority threshold that we would consider this bill under in normal circumstances. It simply is a technical amendment to conform to the Supreme Court opinion that we received earlier this morning.

I would urge your support of the following amendment. Thank you.

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

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

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

Representative HEESCHEN: Thank you. To the Representative from Fairfield. I don't believe I have been here in the past eight years when the Legislature has put a competing measure on the ballot, yet I believe it has happened in the past. If so, what instrument did the Legislature use at that time and why is this necessary now?

The SPEAKER PRO TEM: The Representative from Wilton, Representative Heesch has posed a question through the Chair to the Representative from Fairfield, Representative Gwadosky. The Chair recognizes that Representative.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I would be happy to respond to the excellent question by the Representative from Wilton, Representative Heesch. The precedent in case law is pretty interesting. In fact there are several people who would suggest that the Legislature needs to pass nothing more than an order, a joint order, to put out a competing measure. In fact there is precedent in which the Legislature has done that. We have not used an act or an L.D. We have actually just passed an order to put out a competing measure. In this instance we are changing this act into a resolution once again because we need to change the enacting clause and substitute the resolution clause, because as I indicated earlier the Legislature has no authority to enact this bill. That is a right that is reserved for the people. We can only present it to them as a competing measure and so in the past they have used a variety of vehicles, most typically I believe in the isolated instances in which we have had competing measures we have used a joint order. A joint order would actually be simpler than this version because it only requires one vote by a majority vote in both bodies. In any event these items no longer have to go to the Governor as well. They are simply voted on in the Legislature and put on as a competing measure. I hope that answers the question.

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

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

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

Representative HEESCHEN: It answered part of it but raised another one. Why aren't we just going to do a joint order as you say has been done in the past? Why create a new instrument?

The SPEAKER PRO TEM: The Representative from Wilton, Representative Heesch has posed a question through the Chair to the Representative from Fairfield, Representative Gwadosky. The Chair recognizes that Representative.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: In response to the question posed by the good Representative from Wilton, Representative Heesch, we discussed earlier this morning placing the entire Majority Report into an order and thought that that mechanism might be so foreign to this Legislature, might be so different

that it would be more complicated than not. We knew there were going to be a variety of amendments that were going to be offered and we wanted to try and keep it in as similar form as we could. We knew it couldn't be an act. We knew it could be a resolution as well as an order and that is the simple answer as to why we are now changing it into a resolution as described by the Supreme Court. 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: May I make a request to the Chair? I would kindly request that the members may be given a copy of this morning's Supreme Court opinion, because even though the Representative from Fairfield has very deftly filled us in, I'm not sure that many of us have had a chance to look at that and since it does impact our decision making process, not directly but indirectly, it might be helpful just to go back to our constituents and explain what we have done. It would be appreciated at some time before we leave this evening if possible. Thank you.

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

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

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

Representative BARTH: Thank you. If we adopt what is under discussion, what do we call it? Is it still L.D. 1892, or is it resolution 1892, or what is it?

The SPEAKER PRO TEM: The Chair believes it would still be L.D. 1892.

House Amendment "D" (H-933) to Committee Amendment "A" (H-924) Adopted.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

Committee Amendment "A" (H-924) as amended by House Amendments "B" (H-931), "D" (H-933) and "G" (H-937) 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.

Representative BARTH of Bethel presented House Amendment "A" (H-927) which was read by the Clerk.

Representative LUTHER of Mexico presented House Amendment "A" (H-936) to House Amendment "A" (H-927) which was read by the Clerk.

Representative REED of Falmouth asked ruling from the Chair if House Amendment "A" (H-936) to House Amendment "A" (H-927) was germane to the Bill.

The Chair ruled, pursuant to Joint Rule 217, House Amendment "A" (H-936) was not properly before the body.

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

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: Passage of the resolution that is before us, L.D. 1892, will reduce the current value of wood land. If this occurs, the value of land currently in the tree growth program will decline. For small towns, particularly those in my area and throughout much of western and northern Maine loss of tree growth valuation will cause local property tax rates to increase. Currently towns are

reimbursed their tree growth at a rate of about 40 percent. Another budget balancing gimmick. The state owes those towns up to 90 percent of the reimbursement and if we have the money we are supposed to pay it. We do have the money in the Rainy Day Fund. This amendment will help correct the situation and eliminate, maybe, although I won't guarantee it, the last gimmick that we have used in previous years. I urge your support for this and I request a roll call. Thank you.

Representative BARTH of Bethel requested a roll call on adoption of House Amendment "A" (H-927).

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: I just want to compliment the good Representative from Bethel, Representative Barth. He has, I think, a measure in front of us that is just plain the right thing. I have spoken on this before, so I am not going to bend your ear all night, and I know we are all tired and it is late, but it's the spirit of the law. We should be funding this for 90 percent. It's as plain as day. This is a good thing for the towns. The tree growth law is one of the few laws that actually accomplishes something that it is supposed to accomplish and something government does. There aren't many of those, but this is an example of us not carrying out the laws that we have been asked to carry out. We simply should be funding tree growth to 90 percent. Representative Barth is right. I really applaud him for putting this in front of us and I would urge you to vote for this amendment because it is just plain the right thing to do. I thank you for your time.

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

Representative KERR: Mr. Speaker, Men and Women of the House: This may be an admirable thing to do, but at this point in time I don't think it's the prudent thing to do and raid the Rainy Day Fund. In fact you can go back in time to two years ago when we all took office. We sat in this chamber and we were dealing with the budget. The Appropriations Committee and this Legislature, at that time there was probably a little under 6 million dollars in the Rainy Day Fund. Collectively, through bipartisan support, we have worked very hard and diligently to provide tax relief in some areas for Maine citizens. We probably didn't go as far as everybody wanted, but bipartisanly we continued to work together. Today I can report to you, which I think is a bright spot on the 117th Legislature, that we did get rid of some of those gimmicks that many of us supported and were able to now, as revenues came in, make some tough decisions and we have got rid of most of those. Today in the Rainy Day Fund we've got the most money that we have ever had, 38.4 million dollars. I don't think at this point in time it would be healthy for this Legislative body to start raiding the Rainy Day Fund when we know out there on the horizon, if you want to look at and talk about what the Governor of this State has said is a structural gap, somewhere around 433 million dollars, or what our staff on Fiscal and Program Review has said what the gap may be, somewhere between 350 million dollars and 360 million dollars, if we start raiding that fund today our appetites will grow. I would ask you to vote against the pending motion and let's not touch any of the money out of the Rainy Day Fund because I know

that the next Legislature, the 118th Legislature, will be looking for some money and this money may come in handy. I would urge you to vote against the pending motion. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative CHASE: If we pass this amendment and this is a referendum issue, are we authorized to add to that an expenditure of a given fiscal year be approved through the referendum process?

The SPEAKER: The Chair would respond to the Representative from China, Representative Chase, that since this would be the same fiscal year the answer is yes. This would be allocating this money by referendum. The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Mr. Speaker, Men and Women of the House: This subject is pretty near to my heart and I want to congratulate Representative Barth for bringing it up. I have only woods and trees and moose and deer, as many of you know, and rural area, and I want you to know that the most struck people in my area on the school funding, and all of those other things we are doing to the small areas, are the same towns that are most affected by us not owning up to our obligations in the law and reimbursing them at the 90 percent. We have done a lot of things and I think this is just one step that is going to help everybody. I did some research, this bill, if it is defeated, is going to be coming back, I can guarantee you that. I did some research, there are over 100 Representatives in this body that represent rural towns and if you are here to represent your people and your rural towns this is the way to do it. This is the time to do it. It's appropriate to pay our bills and as far as somebody trying to raid the Rainy Day Fund and find monies for other programs, we've got to pay our bills before we go with those new programs. I would ask everybody in here to support this measure. Thank you.

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

Representative CAMERON: Mr. Speaker, Men and Women of the House: I agree that this is the right thing to do. We have an obligation to fund this at 90 percent. We have heard a lot of comments today about this compact being rushed through without the proper time to study it. This may be the right thing to do to reimburse our towns and I represent small towns as well. We do have the obligation, but spending our money has to be a piece of the big picture, not just one little piece that will make us all feel good and we can go home and say what we did to help our towns. As far as this compact decreasing the value of the land, that's all speculation at this point. It's my opinion versus someone else's opinion. We shouldn't be spending 3 million dollars on somebody's opinion, and while we should, when we come back here in January, take this issue up, we should fund it fully. It would be, in my mind, a grave error to rob the Rainy Day Fund for one year and then find that we can't sustain that and go back to the low level of funding that we are now. That would create more havoc than to not do it at all. While I think it's a great idea, I think this is not the time. Thank you.

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

Representative LIBBY: Mr. Speaker, Men and Women of the House: With all due respect I think the robbery is the other way around. I mean we have got a law to uphold here and I think it's very important that we do that. The question I would pose, and I'm not going to do this formally, but at what level of the Rainy Day Fund should we start thinking about funding tree growth? I mean what level? How high should we get that Rainy Day Fund until we start thinking about making sure that we take care of the laws that we have already passed? "Notwithstanding," what does that actually mean? There is a lot of avoiding the issues here and I'm tired of avoiding the issue. This is a head-on issue. I mean it's just plain wrong and I just compliment Representative Barth for bringing this in front of us as something we should have done last term, not next term, last term. Again, I think we have debated it long enough. I hope that you will go ahead and vote for this amendment. Thank you.

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

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

The pending question before the House is Adoption of House Amendment "A" (H-927). All those in favor will vote yes; those opposed will vote no.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

ROLL CALL NO. 405

YEA - Ault, Bailey, Barth, Birney, Buck, Bunker, Campbell, Carr, Chase, Chick, Clark, Damren, Donnelly, Dunn, Gerry, Gooley, Greenlaw, Hartnett, Heeschen, Heino, Jones, S.; Joy, Lane, Layton, Lemke, Libby JD; Look, Lumbra, Luther, Marshall, McAlevey, McElroy, Meres, Nass, Nickerson, Perkins, Pinkham, Plowman, Poirier, Reed, W.; Robichaud, Stedman, Thompson, True, Tufts, Underwood, Volenik, Waterhouse, Whitcomb, Winsor.

NAY - Adams, Ahearne, Aikman, Benedikt, Berry, Bigl, Bouffard, Brennan, Cameron, Carleton, Chartrand, Chizmar, Cloutier, Clukey, Cross, Daggett, Davidson, Desmond, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gould, Green, Guerrette, Hatch, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Joyce, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lemaire, Lemont, Libby JL; Lindahl, Lovett, Madore, Martin, Marvin, Mayo, Mitchell EH; Mitchell JE; Murphy, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Povich, Reed, G.; Richard, Richardson, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stevens, Strout, Taylor, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Watson, Wheeler, Winglass, Winn, The Speaker.

ABSENT - Dexter, DiPietro, Morrison, Nadeau, Poulin, Pouliot, Rice, Stone, Truman.

Yes, 50; No, 91; Absent, 9; Excused, 0.

50 having voted in the affirmative and 91 voted in the negative, with 9 being absent, House Amendment "A" (H-927) was not adopted.

On motion of Representative BOUFFARD of Lewiston, the House adjourned at 10:35 p.m., until Friday, September 6, 1996 at 9:00 a.m. in honor and lasting tribute to the memory of Representative George F. Ricker of Lewiston.