

MAINE STATE LEGISLATURE

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



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

House Legislative Record
of the
One Hundred and Eighteenth Legislature
of the
State of Maine

Volume I

First Regular Session

December 4, 1996 - March 27, 1997

First Special Session

March 27, 1997 - May 15, 1997

ONE HUNDRED AND EIGHTEENTH LEGISLATURE
FIRST REGULAR SESSION
27th Legislative Day
Monday, March 24, 1997

The Speaker resumed the Chair.

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

Prayer by Honorable Janice E. Labrecque, Gorham.

Pledge of Allegiance.

The Journal of Friday, March 21, 1997 was read and approved.

SENATE PAPERS
Divided Report

Majority Report of the Committee on **Taxation** reporting "**Ought Not to Pass**" on Bill "An Act to Exempt Churches from the Real Estate Transfer Tax" (S.P. 17) (L.D. 15)

Signed:

Senators: RUHLIN of Penobscot

MILLS of Somerset

DAGGETT of Kennebec

Representatives: TRIPP of Topsham

ROWE of Portland

GAGNON of Waterville

MORGAN of South Portland

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-32) on same Bill.

Signed:

Representatives: SPEAR of Nobleboro

LEMONT of Kittery

BUCK of Yarmouth

CIANCHETTE of South Portland

GREEN of Monmouth

TUTTLE of Sanford

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

Was read.

On motion of Representative KONTOS of Windham, tabled pending acceptance of either Report and later today assigned.

The following item was taken up out of order by unanimous consent:

SENATE PAPERS

Bill "An Act to Include Throwing Stars in the Dangerous Weapons Laws" (S.P. 524) (L.D. 1629)

Came from the Senate, referred to the Committee on **Criminal Justice** and Ordered Printed.

Was referred to the Committee on **Criminal Justice** in concurrence.

Bill "An Act to Expand the Board of Trustees of the University of Maine System" (S.P. 523) (L.D. 1628)

Bill "An Act to Improve Taxpayer Equity in School Funding" (S.P. 527) (L.D. 1632)

Came from the Senate, referred to the Committee on **Education and Cultural Affairs** and Ordered Printed.

Were referred to the Committee on **Education and Cultural Affairs** in concurrence.

Bill "An Act to Amend the Campaign Finance Reform Laws" (S.P. 525) (L.D. 1630)

Came from the Senate, referred to the Committee on **Legal and Veterans Affairs** and Ordered Printed.

Was referred to the Committee on **Legal and Veterans Affairs** in concurrence.

Bill "An Act to Make Fish in Maine Rivers Safe to Eat and Reduce Color Pollution" (S.P. 528) (L.D. 1633) (Governor's Bill)

Came from the Senate, referred to the Committee on **Natural Resources** and Ordered Printed.

Was referred to the Committee on **Natural Resources** in concurrence.

Bill "An Act to Reduce the Property Tax Burden for Maine Families" (S.P. 526) (L.D. 1631)

Came from the Senate, referred to the Committee on **Taxation** and Ordered Printed.

Was referred to the Committee on **Taxation** in concurrence.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

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

Agriculture, Conservation and Forestry

Bill "An Act to Increase the Effectiveness of the Maine Blueberry Commission" (EMERGENCY) (H.P. 1169) (L.D. 1646) (Presented by Representative POVICH of Ellsworth) (Cosponsored by Senator HARRIMAN of Cumberland and Representatives: BAGLEY of Machias, BUNKER of Kossuth Township, CAMPBELL of Holden, PINKHAM of Lamoine, RICHARD of Madison, SHANNON of Lewiston, Senators: GOLDTHWAIT of Hancock, KILKELLY of Lincoln)

Banking and Insurance

Resolve, to Require the Superintendent of Insurance to Develop Criteria for an Independent Fairness Review Prior to Conversion of a Non-profit Entity to a For-profit Entity (H.P. 1165) (L.D. 1642) (Presented by Representative MITCHELL of Portland)

Business and Economic Development

Bill "An Act to Establish the Maine Franco-American Center in Bangor" (H.P. 1168) (L.D. 1645) (Presented by Representative BROOKS of Winterport) (Cosponsored by Senator PARADIS of Aroostook and Representatives: BAKER of Bangor, CAMPBELL of Holden, DONNELLY of Presque Isle, LaVERDIERE of Wilton, SAXL of Bangor, Senators: CATHCART of Penobscot, MICHAUD of Penobscot, RUHLIN of Penobscot)

Education and Cultural Affairs

Resolve, Directing the State Board of Education to Add Consolidation to the School Construction Rating System (H.P. 1166) (L.D. 1643) (Presented by Representative COWGER of Hallowell) (Cosponsored by Senator TREAT of Kennebec and

Representatives: BROOKS of Winterport, CHARTRAND of Rockland, COLWELL of Gardiner, LOVETT of Scarborough, MERES of Norridgewock, POWERS of Rockport, VEDRAL of Buxton, WATSON of Farmingdale)

Labor

Bill "An Act to Give the Director of the Bureau of Labor Standards Rule-making Authority for All Wage and Hour and Other Related Laws That the Bureau of Labor Standards Is Charged with Enforcing" (H.P. 1167) (L.D. 1644) (Presented by Representative PENDLETON of Scarborough) (Cosponsored by Senator CATHCART of Penobscot) (Submitted by the Department of Labor pursuant to Joint Rule 204.)

Transportation

Bill "An Act Regarding the Taking of Tolls on the Maine Turnpike" (H.P. 1164) (L.D. 1641) (Presented by Representative MACK of Standish) (Cosponsored by Representatives: BODWELL of Brunswick, LEMONT of Kittery, LOVETT of Scarborough)

By unanimous consent, all reference matters requiring Senate concurrence having been acted upon were ordered sent forthwith.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **Marine Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-84) on Bill "An Act to Amend the Marine Resources Special Licensing Laws to Provide for Test Marketing and Development of New Seafood Products" (EMERGENCY) (H.P. 157) (L.D. 199)

Signed:
 Senators: GOLDTHWAIT of Hancock
 PENDLETON of Cumberland
 Representatives: ETNIER of Harpswell
 GOODWIN of Pembroke
 PERKINS of Penobscot
 BAGLEY of Machias
 PIEH of Bremen
 VOLENIK of Brooklin
 LAYTON of Cherryfield

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

Signed:
 Representatives: PINKHAM of Lamoine
 HONEY of Boothbay
 PINKHAM of Brunswick

Was read.

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

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

Divided Report

Majority Report of the Committee on **Marine Resources** reporting "**Ought Not to Pass**" on Bill "An Act to Extend the Territorial Waters to 12 Miles for the Purpose of Marine

Resource Protection and the Enforcement of Marine Resource Laws" (H.P. 212) (L.D. 276)

Signed:
 Senators: GOLDTHWAIT of Hancock
 PENDLETON of Cumberland
 MacKINNON of York

Representatives: ETNIER of Harpswell
 GOODWIN of Pembroke
 BAGLEY of Machias
 PIEH of Bremen
 LAYTON of Cherryfield
 HONEY of Boothbay
 PINKHAM of Brunswick

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-77) on same Bill.

Signed:
 Representatives: PERKINS of Penobscot
 PINKHAM of Lamoine
 VOLENIK of Brooklin

Was read.

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

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

Divided Report

Majority Report of the Committee on **Marine Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-85) on Bill "An Act to Provide Authority to Close Marine Waters to Fishing in the Event of Contamination" (H.P. 361) (L.D. 506)

Signed:
 Senator: GOLDTHWAIT of Hancock
 Representatives: ETNIER of Harpswell
 PERKINS of Penobscot
 PIEH of Bremen
 PINKHAM of Lamoine
 VOLENIK of Brooklin
 LAYTON of Cherryfield
 HONEY of Boothbay
 PINKHAM of Brunswick

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

Signed:
 Representative: GOODWIN of Pembroke

Was read.

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

The Bill was read once. Committee Amendment "A" (H-85) was read by the Clerk and adopted. The Bill was assigned for second reading Tuesday, March 25, 1997.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(H.P. 286) (L.D. 350) Resolve, to Establish a Task Force to Study the Feasibility of a Single Claims Processing System for 3rd-party Payors of Health Care Benefits Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-89)

(After Recess)

(H.P. 554) (L.D. 745) Bill "An Act to Amend the Maine Consumer Credit Code" Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-90)

(H.P. 638) (L.D. 863) Bill "An Act to Amend the North Yarmouth-Cumberland Town Line" (EMERGENCY) Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-86)

(H.P. 775) (L.D. 1052) Resolve, Establishing a Task Force to Examine the Desirability of a Model Municipal Building Code (EMERGENCY) Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-91)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, March 25, 1997 under the listing of Second Day.

**CONSENT CALENDAR
Second Day**

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the Second Day:

(S.P. 251) (L.D. 820) Bill "An Act to Repeal the Maine Surplus Energy Auction Program"

(S.P. 327) (L.D. 1105) Bill "An Act to Exempt Public Airports with Approved Airport Layout Plans from Subdivision Review"

(S.P. 10) (L.D. 2) Bill "An Act to Allow Municipalities to Enact Stricter Standards Regulating Sewer or Septic Sludge" (C. "A" S-30)

(S.P. 22) (L.D. 20) Bill "An Act to Clarify the Law Concerning Evictions from Mobile Home Parks" (EMERGENCY) (C. "A" S-27)

(S.P. 48) (L.D. 158) Bill "An Act to Preserve Public Springs" (C. "A" S-29)

(S.P. 117) (L.D. 396) Bill "An Act to Allow the Maine Forest Service to Retain Funds from the Sale of Real Estate" (C. "A" S-23)

(S.P. 159) (L.D. 488) Bill "An Act to Change the Laws Pertaining to the Issuance of Copies of Birth, Marriage or Death Certificates by Towns" (C. "A" S-21)

(H.P. 17) (L.D. 42) Bill "An Act to Allow Veterans to Get Vanity Veteran License Plates" (C. "A" H-83)

(H.P. 97) (L.D. 121) Bill "An Act to Require Disclosure to Prison Workers in the Case of an Inmate Who Tests Positive for Acquired Immune Deficiency Syndrome" (C. "A" H-81)

(H.P. 299) (L.D. 363) Bill "An Act to Clarify the Manner in Which Decedents' Estates Are to Be Distributed" (EMERGENCY) (C. "A" H-79)

(H.P. 335) (L.D. 457) Bill "An Act to Discourage Frivolous Lawsuits by Prisoners" (C. "A" H-80)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed to be Engrossed or Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

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

On motion of Representative MITCHELL of Vassalboro, the House recessed until 4:00 p.m.

The House was called to order by the Speaker.

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

TABLED AND TODAY ASSIGNED

The Chair laid before the House the following item which was Tabled and Today Assigned:

SENATE DIVIDED REPORT - Majority (7) "**Ought Not to Pass**" - Minority (5) "**Ought to Pass**" as amended by Committee Amendment "A" (S-14) - Committee on **State and Local Government** on Bill "An Act to Allow Municipalities to Advertise Public Legal Notices in Weekly Papers" (S.P. 18) (L.D. 16)

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

TABLED - March 21, 1997 by Representative SAXL of Portland.
PENDING - Motion of same Representative to accept the Majority "**Ought Not to Pass**" Report.

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

Representative BUMPS: Madam Speaker, Men and Women of the House. I would like to speak very briefly this afternoon in favor of L.D. 16 as amended by the committee amendment. This bill would allow municipalities to advertise public legal notices in weekly newspapers while guaranteeing adequate access. In fact, this amendment actually improves access by ensuring that notice is mailed to each resident of the municipality and at the same time saves the local government the cost of advertising in the sometimes less read and more expensive daily paper.

The current law mandates municipalities to advertise public notices in publications that are mailed as second class mail. This provision excludes most weekly papers and essentially protects the monopoly that the daily papers traditionally had on this market. In recent years, I suspect, we can all cite cases in our own districts where weekly newspapers have come into existence and have become more widely read and available than the daily paper. In many communities local governments have understood this and have assumed the added expense of complying with the law by reluctantly advertising in the daily paper and also purchasing a legal ad in the more widely accessible weekly. For instance, in my hometown of China, the daily paper claims to distribute through home delivery or on the news stand an average 340 daily newspapers. However, our weekly paper is mailed directly to 1,723 households. The comparisons continue to hold true throughout the rest of my district. The message is simple. If only the law permitted it, municipalities could advertise at a lower cost with a higher distribution in the weekly papers.

Finally, it is important to understand that if empowered by this bill to do so, local government officials are going to advertise public notices where they will be most widely read. In the event that residents are unaware of a public meeting, it is those same town officials who assume responsibility for making public notice. They are certain to protect themselves by making the information readily available in either the daily or weekly paper, whichever they deem is most appropriate. Therefore, I would ask you to relieve the municipalities from having to support the monopoly of the daily papers and vote against the pending motion. Further, I would ask for a division.

Representative BUMPS of South China requested a division on the motion to accept the Majority "Ought Not to Pass" Report.

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

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

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. I hope that you would join me in accepting the Majority "Ought Not to Pass" Report. One of the real concerns that the majority of the committee had on this bill is the issue of the third-class mailings. It was told to us by the post office that the third-class mail is not given a priority treatment. They will deliver it whenever the post office can get to it. Public notices of meetings should be placed only in those publications that are required to be delivered in a timely manner, like second class mail. Otherwise, placing the notices in such publications really is a waste of the taxpayers' money because the notice may very well arrive after the meeting is advertised. Why place an advertisement in a paper that is not designated to arrive on time? This was one of the concerns I had and I believe is one of the priority concerns to me is the fact that it is by a third-class mail in the amendment and not by second. The issue, to me, clearly that these notices should have the absolute priority. I hope you join me and accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative BROOKS: Madam Speaker, Ladies and Gentlemen of the House. Living as close to this issue as I do, I wasn't going to get up and speak, but I think I am going to try to take off one hat that represents the newspaper business and put on another one that represents that of a municipal authority of someone who serves on a number of boards. I am chairman of the town planning board in Winterport. I am also chairman of the budget committee. I have served on a couple of other boards and I hope that you will join with us in voting "Ought Not to Pass" on this issue. The primary reason why I do that is because I think that there is a certain expectation that the citizens have of knowing and having public notice on all meetings that go on in town. My experience has been, as a planning board chair and as a budget committee chair, is the best way to do that is under the current law. The purpose of the current statute is that all public official notices come to the attention of as wide and as diverse readership as possible. When you start talking about doing this in third class or other shopper-type newspapers, there is really not much of an expectation that the notice will be seen. I think we all know of experiences where some of those newspapers do pile up in either the post office or the local grocery store and it is very difficult to ascertain whether or not a sufficient number of people had seen these notices that would show up and give their views at any public hearing that we might conduct.

On the other hand, the newspapers that are currently covered by the statute have a verifiable circulation and therefore, is a great expectation by, not only the public, but by those of us who serve in municipal office that that notice will get out there. It deeply concerns me that we might be looking in this direction, not necessarily as a newspaperman, which I am proud to say I have been for many, many years, but as a municipal authority person who has served on a number of boards. I hope you will join with us in the "Ought Not to Pass." I think that there is an expectation that can be met under the current statute. Thank you.

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

Representative GERRY: Madam Speaker, Ladies and Gentlemen of the House. I stand in opposition of this motion. The reason I am in opposition is that I am one of the minority members that have voted to allow the towns or cities to choose which paper they would like to put their advertisement in. Only the local towns and cities know which paper, or should know which paper, that their people within the area read. If they are in such a distant location that a regular published paper isn't available, I feel that they should be allowed to put it into whatever they can guarantee or know that will get into every household. One of the statements that was made in front of the committee was that not every household in Maine buys a paper. Sometimes when they hear about stuff it is old news. At least give the cities a chance to use their wisdom. If people don't get told their notices on time, then the city will know about it and they won't use that paper again. Please vote down this motion. Thank you.

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

Representative BUMPS: Madam Speaker, Ladies and Gentlemen of the House. Very quickly and very simply I just want to remind all the members of the House that as this bill is amended by the committee amendment, it does provide for notice to every resident in the district 12 months in advance of public notices being advertised that they will find their public notices in a certain weekly periodical and beyond that, the committee amendment requires that the third-class mail be mailed to every single household in the district, unlike the current requirement that simply requires second-class mailing. Thank you.

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

ROLL CALL NO. 42

YEA - Ahearne, Bagley, Baker CL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Chartrand, Clark, Colwell, Cowger, Desmond, Dutremble, Etnier, Fisk, Frechette, Gagne, Gamache, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kontos, LaVerdiere, Lemaire, Madore, Mailhot, Mitchell JE, Muse, O'Neal, O'Neil, Paul, Pieh, Plowman, Povich, Powers, Quint, Richard, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Stanley, Stevens, Thompson, Townsend, Tripp, Volenik, Watson, Wheeler GJ, Wright.

NAY - Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bragdon, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Chizmar, Cianchette, Clukey, Cross, Davidson, Dexter, Donnelly, Dunlap, Fisher, Foster, Fuller, Gagnon, Gerry, Gieringer, Goodwin, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Marvin, Mayo, McAlevey, McElroy, McKee, Meres, Morgan, Murphy, Nickerson, O'Brien, Ott, Peavey, Pendleton, Perkins, Perry, Pinkham RG, Pinkham WD, Poulin, Rines, Savage, Skoglund, Snowe-Mello, Spear, Stedman, Taylor, Tessier, Tobin, Treadwell, True, Underwood, Usher, Vedral, Vigue, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

ABSENT - Bodwell, Bruno, Driscoll, Farnsworth, Kerr, Mack, Nass, Tuttle, Madam Speaker.

Yes, 60; No, 82; Absent, 9; Excused, 0.

60 having voted in the affirmative and 82 voted in the negative, with 9 being absent, the motion to accept the Majority "Ought Not to Pass" Report was not accepted.

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

The Bill was read once. Committee Amendment "A" (S-14) was read by the Clerk and adopted. The Bill was assigned for second reading March 25, 1997.

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

Bill "An Act to Streamline Licensing and Reporting Requirements and Reduce Regulatory Burdens for Licensed Insurance Professionals and Insurers" (EMERGENCY) (S.P. 535) (L.D. 1640)

(The Committee on Reference of Bills had suggested reference to the Committee on **Business and Economic Development**.)

Came from the Senate, referred to the Committee on **Banking and Insurance** and Ordered Printed.

Was referred to the Committee on **Banking and Insurance** in concurrence.

Bill "An Act to Authorize the Appleton, Camden, Hope, Lincolnville and Rockport Community School District to Construct School Facilities" (EMERGENCY) (S.P. 532) (L.D. 1637)

Bill "An Act to Establish a Higher Standard for Appropriate Education of Students with Disabilities" (S.P. 533) (L.D. 1638)

Came from the Senate, referred to the Committee on **Education and Cultural Affairs** and Ordered Printed.

Were referred to the Committee on **Education and Cultural Affairs** in concurrence.

Bill "An Act to Promote Consumer Choice in Health Care Providers for Patients Discharged from Hospitals and in Need of Continuing Care" (S.P. 529) (L.D. 1634)

Came from the Senate, referred to the Committee on **Health and Human Services** and Ordered Printed.

Was referred to the Committee on **Health and Human Services** in concurrence.

Bill "An Act to Make Mediation Mandatory in Medical Malpractice Proceedings" (S.P. 531) (L.D. 1636)

Bill "An Act to Amend the Corporate Laws" (S.P. 534) (L.D. 1639)

Came from the Senate, referred to the Committee on **Judiciary** and Ordered Printed.

Were referred to the Committee on **Judiciary** in concurrence.

Bill "An Act to Make Changes to the Official Maine State Symbols" (S.P. 530) (L.D. 1635)

Came from the Senate, referred to the Committee on **State and Local Government** and Ordered Printed.

Was referred to the Committee on **State and Local Government** in concurrence.

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

TABLED AND TODAY ASSIGNED

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

SENATE DIVIDED REPORT - Majority (10) "**Ought Not to Pass**" - Minority (3) "**Ought to Pass**" - Committee on **State and**

Local Government on Resolve, to Name the Richardson Township Boat Landing "Georges Landing" (S.P. 314) (L.D. 1054)

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

TABLED - March 21, 1997 by Representative SAXL of Portland.
PENDING - Acceptance of Either Report.

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

The same Representative requested the Clerk to read the Committee Report.

The Clerk read the Committee Report in its entirety.

Subsequently the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

Bill "An Act to Clarify the Fine for Violation of Certain Land Use Laws" (H.P. 1157) (L.D. 1621)

(Committee on **State and Local Government** suggested)

TABLED - March 21, 1997 by Representative SAXL of Portland.
PENDING - Reference.

On motion of Representative AHEARNE of Madawaska the bill was referred to the Committee on **Natural Resources**, ordered printed and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (8) "**Ought to Pass**" as amended by Committee Amendment "A" (H-30) - Minority (5)

"**Ought Not to Pass**" - Committee on **State and Local Government** on Bill "An Act to Designate Square Dancing as the Official Folk Dance of Maine" (H.P. 111) (L.D. 135)

TABLED - March 21, 1997 by Representative SAXL of Portland.
PENDING - Motion of Representative BROOKS of Winterport to reconsider acceptance of the Minority "**Ought Not to Pass**" Report.

Subsequently the House reconsidered its action whereby the Minority "**Ought Not to Pass**" Report was accepted.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative BROOKS: Madam Speaker, Ladies and Gentlemen of the House. I think it was maybe two or three months ago when this first came up on the calendar. It seems that long ago, anyway. That morning when it first came up I may have been asleep at the wheel because I happened to be reading a letter from a constituent who lives in Monroe and asking me at the time if I wouldn't support this legislation which would designate square dancing as the official folk dance of the state. I missed the motion "Ought Not to Pass" and asked if we couldn't hold it and reconsider. Quite coincidentally, that next night I got a phone call from some folks who also live in my district who are officers in the statewide square dancing organization who wanted to come down here. As you recall, last Thursday morning, I believe, the three of them were in the gallery and were introduced by the Speaker. One of those people who happen to also be a first selectman in the Town of Monroe informed me, I have no reason to dispute him, that the history of square dancing can be traced back to the State of Maine. I have since been told that it can be traced back to South Carolina or some other place. I am not absolutely certain where it originated. I am not one who goes out and either squares or rounds or you can look at me and know that I don't clad dance or whatever it is called.

I do feel that when you get several phone calls and several letters from people who are asking if we won't kindly vote to support this, that we ought to make sure that we do bring it to

discussion on the floor. I would ask that when this does come to vote that you would join with me and vote against the "Ought Not to Do-si-do."

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. This issue came before our committee and we thought we were going to get a demonstration and everything in our committee, but we did not. There is an underlying feeling from me, personally, about this. It was a testimony that was submitted and it kind of got to me. I didn't say anything, but this, I guess, through some discussion there is some history behind these square dances that comes from the French, English and Scots. What particularly caught my eye with the testimony and I will quote, "Our dancing came to us from overseas with the settlers, your ancestors, the English, French, Scots and the Irish." Here, in New England, is where it started in this country and we still use it today in Maine. Well I don't know my ancestors when we were here. I don't think we can say we are imposed as dance onto us, but it kind of hit me in that way that there are other types of dancing in this state and that the settlers were not the first ones here bringing this dance, but there was dancing here long before the French, Scotch, Irish and the English.

In the written testimony from the Arts Commission, it stated, which I read from Mr. Wilson, the Director of the Maine Arts Commission. "There are many legitimate forms of folk dance in this state ranging from Native American and other ethnic dances to which this bill considers. We urge you not to single out any one of these individual art forms, but to celebrate them all as part of a rich cultural heritage of our state." I believe we can celebrate these as a rich cultural heritage of our state. I think all those ethnic groups can come together under one, but to single out one in particular, I think, is not the right thing to do. I further move that this bill and all its accompanying papers be Indefinitely Postponed.

Representative AHEARNE of Madawaska moved the bill and all accompanying papers be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative COWGER: Madam Speaker, Colleagues of the House. This is a very difficult issue to speak on. I really want to use this opportunity to pass some information on to my colleagues in the House. I received a petition signed by 56 signatures ranging from Arundal to East Wilton, sort of the extremes of the petition here. If anyone would like to see it, I have it with me here. Briefly, it says, "We, the undersigned respectfully request your support for LD 135, "An Act to Designate Square Dancing as the Official Folk Dance of Maine." That would be the extent of my testimony. Thank you.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Labrecque.

Representative LABRECQUE: Madam Speaker, Ladies and Gentlemen of the House. We have as a state bird a Chickadee. We have as a state tree a White Pine. We have, as we have indicated, specific things to be state orientated, we have discriminated, we have chosen one over others. I see this as no different. I request a roll call on the tabling motion.

Representative LABRECQUE of Gorham requested a roll call on the motion to indefinitely postpone the bill and all accompanying papers.

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

Representative LEMKE: Madam Speaker, Ladies and Gentlemen of the House. I realize it is easy sometimes to not take seriously at face value some bills that come before us. This

might, in some people's minds, qualify. However, there is part of the testimony that we got that the good Representative Ahearne did not mention. He talked about the ethnic composition of the immediate origins, but it should also be pointed out that the folks who did the square dance, or the forerunner of it, in England. We are the merchants from Plymouth. They were not the well-to-do from London who organized the companies in the early settlements. They were the poor people. They were the people in the countryside. This is very much part of their tradition and it shouldn't be a shock, I suppose, to know that the State of Maine, then part of Province of Massachusetts was not settled by the better people. It was settled by the poorer people. It was settled by the people who were driven out of Massachusetts for various reasons. I don't know if there is a specter of political correctness on all of this, but quite frankly, I think it would be pretty correct to vote for this particular piece of legislation.

As Representative Labrecque noted, we already have a state bird, state animal and we even have a state fossil, which is entrained up on the fourth floor that you can check. It seems to me that when you have something that has a wide constituency, which it does in Maine, like square dancing, these are folks that it means a great deal to and many participate in. I assume there is a lot more of those type of folks than those who agitated for a state fossil. If we can have a state fossil, I think we can have representation of something that is very living, very vibrant and very much part of Maine's culture. It started in Maine and then it migrated south to the hill countries and other places. Let's keep it here. Let's recognize it. This is a serious bill.

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

Representative DUNLAP: Madam Speaker, Men and Women of the House. I must concur with the Representative from Madawaska, Representative Ahearne, in his assessment of all this. If the square dance is truly an English dance, then let it stay in England. When my family left Scotland, they left their dances behind and if you ever want to watch me dance, you will understand why. I would have to support the motion. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Belmont, Representative Berry.

Representative BERRY: Madam Speaker, Men and Women of the House. I introduced this legislation and request by the people who take part in this activity in the State of Maine. First of all, let's clarify a couple of things that have been noted. The earliest permanent European settlers in New England were, of course, the puritans in Massachusetts. Those people had nothing to do with dance. Then there was this other splinter group that came to this place called the Province of Maine. Those people, not like the puritans, were people who looked for and enjoyed a flavor in both dance, drinking and other miscellaneous items. Cumberland and York Counties were the first sections of Maine to be extensively settled and the people there were primarily farmers from the English countryside and from Scotland and Ireland. They brought their traditions and their practices. They built cabins and their distance apart was quite far. One of the activities that was available to them when they were able to get together because of isolation was that they did sing, dance and probably drink their spruce beer.

The dances of the first Maine settlers were brought from those countries. We agree with that, but the dances that we have are Maine origin dances. The long way figures of the "Ladies Walpole Reel" during the revolution. The idea that the fiddlers themselves, like fiddler Gray of Portland, who was one of the most popular of all of them. He prompted the dances in Saco and Biddeford and created the dance called the "Portland Fancy." That is not an English, Scottish or Irish dance. That is

Maine. The "Damariscotta Reel," the "Megunticook Reel," the master fiddlers, people like Peter McFarland from Manville, now Blue Hill, one of the great fiddlers in the State of Maine. The banjo players like Tommy Glynn from Portland, who is proclaimed to be the greatest banjo player of all time promoting that dance. The most famous, and probably the most respected of all fiddler players, was a man named Millie Dunham of Norway. Millie Dunham danced and played throughout Maine and the northeast for over 56 years. For a time he led his own orchestra creating dances and being one of the most influential people and one of the most influential that he had an impact on was a gentleman named Henry Ford. Through Ford's promotion of the square and round dancing, it began to take on the form that it has today.

In the late 19th and early 20th centuries, Maine produced large numbers of fiddlers who promoted the country dances. In 1926, Lewiston hosted the world's fiddle playing contest. That fiddle playing contest was won by Cyril Nolan of Auburn. In my own county in Belfast, was another great center of traditional music and dance around the turn of the century when Jeremiah Whitten, a young man who opened a school there, barely 20 years old and a child of 10, he had purchased his first fiddle. It only had one string, but he still made it work.

I urge you today to support this bill to create square dancing as the dance of Maine.

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

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

Representative BARTH: Madam Speaker, Men and Women of the House. Just for the record, the fiddler from Norway, Maine his first name was Mellie, with an "e." Just for the record. I will not call a square dance right now because my singing voice isn't very good. Thank you.

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

Representative JOY: Madam Speaker, Men and Women of the House. The board is not in agreement with the motion that the Speaker has declared. The board says Indefinite Postponement.

The SPEAKER: The Speaker is in error. The motion is to Indefinitely Postpone. The board is correct, not the Speaker. The Chair will restate the motion and the Chair thanks the Representative.

A roll call has been ordered. The pending question before the House is Indefinite Postponement of the Bill and all Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 43

YEA - Ahearn, Bagley, Baker CL, Berry RL, Bolduc, Bouffard, Brennan, Buck, Bull, Bunker, Cameron, Chartrand, Clark, Clukey, Davidson, Dunlap, Etnier, Fisk, Frechette, Gamache, Gerry, Goodwin, Hatch, Jabar, Jones SL, Joyce, Joyner, Kontos, Layton, Lemaire, Madore, Mailhot, McKee, Meres, Mitchell JE, Nickerson, O'Neal, Perkins, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Sanborn, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Thompson, Townsend, Treadwell, Tripp, Underwood, Volenik, Wheeler EM, Wright, Madam Speaker.

NAY - Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bragdon, Brooks, Bumps, Campbell, Carleton, Chick, Chizmar, Cianchette, Colwell, Cowger, Cross, Desmond, Dexter, Donnelly, Dutremble, Fisher, Foster, Fuller, Gagne, Gagnon, Gieringer, Gooley, Green, Honey, Jones KW, Jones SA, Joy, Kane, Kasprzak, Kerr, Kneeland, Labrecque, Lane, LaVerdiere, Lemke, Lemont, Lindahl, Lovett, MacDougall, Marvin, Mayo,

McAlevey, McElroy, Morgan, Murphy, Muse, Nass, O'Brien, O'Neil, Ott, Paul, Peavey, Pendleton, Pinkham RG, Pinkham WD, Plowman, Samson, Savage, Shannon, Snowe-Mello, Spear, Stedman, Taylor, Tessier, Tobin, True, Usher, Vedral, Vigue, Waterhouse, Watson, Wheeler GJ, Winglass, Winn, Winsor.

ABSENT - Bodwell, Bruno, Driscoll, Farnsworth, Mack, Tuttle. Yes, 64; No, 81; Absent, 6; Excused, 0.

64 having voted in the affirmative and 81 voted in the negative, with 6 being absent, the motion to indefinitely postpone the bill and all accompanying papers was not accepted.

The Chair ordered a division on acceptance of the Minority "Ought not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Belmont, Representative Berry.

Representative BERRY: May I pose a question.

The SPEAKER: The Representative may pose his question.

Representative BERRY: Thank you. Just a point of clarification. We are voting now on the "Ought Not to Pass."

The SPEAKER: The Chair would explain. The last vote was to Indefinitely Postpone. That motion failed so we are back to the motion that was in place prior to the Indefinite Postponement motion, which was the Minority "Ought Not to Pass" Report.

The Chair recognizes the Representative from Westbrook, Representative Lemke and would acquire for what purpose the Representative rises.

Representative LEMKE: I just wanted to add a clarification. Red is square dancing and green isn't.

A vote of the House was taken. 61 voted in favor of the same and 74 against, the Minority "Ought not to Pass" Report was not accepted.

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

The Bill was read once. Committee Amendment "A" (H-3) was read by the Clerk and adopted. The Bill was assigned for second reading March 25, 1997.

ENACTORS

Emergency Measure

An Act to Amend the Laws Requiring Notification for Public Hearings Concerning Ordinance Changes (H.P. 58) (L.D. 83) (C. "A" H-7)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of the same and 3 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following item was taken up out of order by unanimous consent:

ENACTORS

Emergency Mandate

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1998 and June 30, 1999 (H.P. 832) (L.D. 1137) (Governor's Bill) (H. "FF" H-73, H. "HH" H-75 and H. "JJ" H-82 to C. "A" H-15)

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

Representative DONNELLY of Presque Isle requested a roll call on passage to be enacted.

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

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

Representative VEDRAL: I would like to pose a question. I see that the board says 10-1 and this is on Supplement 2. I think there is some confusion with 10-1 in the calendar. This should be Supplement 2, item 10-1 that we are looking at not, in our printed calendar. Correct?

The SPEAKER: The Chair would answer that this is a supplement. It is Supplement 2. It is item 10-1 and it is the budget.

The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. I had no intentions of getting up and speaking on this, but I think that based on what has been happening that I probably should take a few minutes of your time and try to get some perspective as to where we are at the present time. In the 115th, there is probably only 12 people that were left in the House that were here when I served in the 115th. I can tell you that it was not very pleasant. What I am afraid that is going to happen is that we may take and turn in that direction. Right now there is a great deal to say in support of the upcoming budget. Many of us, I won't refer to one side of the aisle or the other side of the aisle because I never have done that and I don't intend to. If we are here working for the people of the State of Maine, we are supportive of the people and will work in that direction.

A great deal is done by many people. I see them sitting here trying to come up with a solution. I hope that we can all support the budget. I will tell you why. If we don't and we return to what was in operation in the 115th, we will learn to dislike each other, distrust each other and end up voting against good bills because they are put in by the opposing party. I used to dislike that with a passion. I formed the 107 group in the 115th and it led to numerous things being changed. The reason for that is that nobody in the group wanted to continue with the old process. I ask you to please consider the budget. There is a great deal in the budget that will give you much to talk about at home and probably a lot less that will harm you. I thank you for your time.

The SPEAKER: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative LINDAHL: Madam Speaker, Men and Women of the House. If this is the new process, I certainly am not satisfied as it is. 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. 44

YEA - Ahearn, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Cameron, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Dunlap, Dutremble, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, LaVerdiere, Lemaire, Lemont, Mailhot, Mayo, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Usher, Vigue, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bragdon, Buck, Bumps, Campbell, Carleton, Chick, Cianchette,

Clukey, Cross, Dexter, Donnelly, Fisk, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Kontos, Labrecque, Lane, Layton, Lemke, Lindahl, Lovett, MacDougall, Madore, Marvin, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Bodwell, Bruno, Driscoll, Farnsworth, Mack, Tuttle. Yes, 79; No, 66; Absent, 6; Excused, 0.

79 having voted in the affirmative and 66 voted in the negative, with 6 being absent, in accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, this bill fails of enactment.

Representative KONTOS of Windham moved that the House reconsider its action whereby the bill failed of passage to be enacted.

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

Representative KONTOS: I urge the House to vote with me.

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

Representative DONNELLY: Madam Speaker, Ladies and Gentlemen of the House. I hope we will be voting against that motion.

The Chair ordered a division on acceptance of the motion to reconsider passage to be enacted.

A vote of the House was taken. 77 voted in favor of the same and 66 against, the motion to reconsider was accepted.

This being an Emergency Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken 80 having voted in favor of the same and 65 against, and accordingly the Mandate failed of passage to be enacted and sent up for concurrence.

The SPEAKER: These are the guidelines, at least orally, for the use of electronic devices while we are in session. We will certainly make that available to you in writing. Pursuant to House Rule 201d, the following rules of decorum shall be observed when the House is in session. The use of cellular phones is strictly prohibited. The following equipment if allowed: laptop computers of a standard size that are battery operated and nonaudible taping.

Emergency Mandate

An Act to Return a Certain Parcel of Land to Hartland from Pittsfield (H.P. 46) (L.D. 71) (C. "A" H-6)

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

Representative STEDMAN: Madam Speaker, Ladies and Gentlemen of the House. This bill was put in real early in the session at the request of some landowners who wish to become a part of the Town of Hartland. Various reasons were given, including the proximity of services to the area of this property. In order to expedite the process I was able to persuade the two towns in question to consider the exchange before the fact. Each town gave official approval, Pittsfield to give up the land and Hartland to receive it.

In the early days of consideration this was done and copies of the official letters making this transaction possible were submitted as testimony. Despite these official acts, the Office of

Fiscal Review determined that a mandate was in order, thus the need to vote on this matter with a two-thirds majority. Since it was already declared as a mandate, I put on the emergency preamble so that these people could take advantage of the taxation problem right up front and as early as possible. This is the reason for the mandate. The towns have already agreed on both sides to accept and to give up, officially, by vote of the town officials and it still has the mandate preamble. I hope you will go along with this decision. I believe this came out of committee unanimously and I would urge your support for this bill. Thank you.

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 135 voted in favor of the same and 1 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Allow Towns to Use the Money Held in Administrative Funds That Comes from the Use of Ministerial Trust Land (H.P. 210) (L.D. 274) (C. "A" H-5)

An Act to Require Responsibility of the Employers of Persons who Collect Signatures (H.P. 318) (L.D. 440)

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

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

SENATE PAPERS
Divided Report

Majority Report of the Committee on **Education and Cultural Affairs** reporting "**Ought Not to Pass**" on Bill "An Act to Exempt Schools with One Teacher from Continued Contracts for Teachers" (S.P. 40) (L.D. 38)

Signed:

Senators: PENDLETON of Cumberland
SMALL of Sagadahoc
CATHCART of Penobscot

Representatives: WATSON of Farmingdale
BAKER of Bangor
RICHARD of Madison
DESMOND of Mapleton
STEDMAN of Hartland
BELANGER of Caribou
McELROY of Unity
BRENNAN of Portland

Minority Report of the same Committee reporting "**Ought to Pass**" on same Bill.

Signed:

Representatives: BARTH of Bethel

SKOGLUND of St. George

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

Was read.

On motion of Representative RICHARD of Madison the Majority "**Ought Not to Pass**" Report was accepted.

Divided Report

Majority Report of the Committee on **Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-31) on Bill "An Act to Amend the Site Law Concerning State and Local Review of Transmission Lines" (S.P. 79) (L.D. 218)

Signed:

Senators: TREAT of Kennebec
NUTTING of Androscoggin

Representatives: ROWE of Portland
SHIAH of Bowdoinham
BULL of Freeport
COWGER of Hallowell
JONES of Greenville
McKEE of Wayne
MERES of Norridgewock
FOSTER of Gray

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

Signed:

Senator: BUTLAND of Cumberland
Representatives: DEXTER of Kingfield
NICKERSON of Turner

Came from the Senate with the Majority "**Ought to Pass**" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-31).

Was read.

On motion of Representative ROWE of Portland, tabled pending acceptance of either report and later today assigned.

Non-Concurrent Matter

Bill "An Act to Increase Funding to the Highway Fund to Allow Major Improvements to Highways and Bridges" (H.P. 1160) (L.D. 1624) which was referred to the Committee on **Transportation** in the House on March 21, 1997.

Came from the Senate referred to the Committee on **Taxation** in non-concurrence.

The House voted to recede and concur.

On motion of Representative BULL of Freeport, the House adjourned at 7:05 p.m., until 10:00 a.m., Tuesday, March 25, 1997.