

# MAINE STATE LEGISLATURE

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**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 SPECIAL SESSION  
4th Legislative Day  
Wednesday, April 2, 1997

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

Prayer by Reverend Robert W. Gustafson, University College and the Bangor Theological Seminary.

National Anthem by the Warsaw Middle School Band, Pittsfield.

Pledge of Allegiance.

Doctor of the day, Ira Steinberg, M.D., Lewiston.

The Journal of yesterday was read and approved.

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**SENATE PAPERS**

The following Communication: (H.C. 124)

**MAINE STATE SENATE  
STATE HOUSE STATION 3  
AUGUSTA, MAINE 04333**

April 1, 1997

The Honorable Elizabeth H. Mitchell  
Speaker of the House  
118th Maine Legislature  
2 State House Station  
Augusta, Maine 04333  
Dear Speaker Mitchell:

In accordance with Joint Rule 506, please be advised the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Judiciary, the nomination of the Honorable Bernard M. Devine of Falmouth for reappointment as an Active Retired Judge of the Maine District Court.

Thank you for your attention to this matter.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

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The following Joint Resolution: (S.P. 575)  
**JOINT RESOLUTION COMMEMORATING YOM HASHOAH,  
THE DAY OF REMEMBRANCE OF THOSE WHO  
SUFFERED AS VICTIMS OF THE HOLOCAUST**

**WHEREAS**, 55 years ago, 6,000,000 Jews were murdered in the Nazi Holocaust as part of a systematic program of genocide and millions of other people suffered as victims of Nazism; and

**WHEREAS**, the people of the State of Maine should always remember the atrocities committed by the Nazis so that such horrors are never repeated; and

**WHEREAS**, the people of the State of Maine should always remember those who liberated the Nazi concentration camps, some at the cost of their lives and others with lifelong emotional suffering, as holding an honored place in our history; and

**WHEREAS**, the people of the State of Maine should continually rededicate themselves to the principle of equal justice for all people, remain eternally vigilant against all tyranny and recognize that bigotry provides a breeding ground for tyranny to flourish; and

**WHEREAS**, May 4, 1997 has been designated internationally as a Day of Remembrance of the Victims of the Nazi Holocaust, known as Yom HaShoah; and

**WHEREAS**, the national community pursuant to an Act of Congress will be commemorating the Days of Remembrance of the Victims of the Nazi Holocaust; and

**WHEREAS**, it is appropriate for the people of the State of Maine to join in this international commemoration; now, therefore, be it

**RESOLVED**: That, We, the Members of the One Hundred and Eighteenth Legislature, now assembled in the First Special Session, on behalf of the people we represent, pause in solemn memory of the victims of the Nazi Holocaust, and urge one and all to recommit themselves to the lessons of the Nazi Holocaust through this international week of commemoration and express our common desire to continually strive to overcome prejudice and inhumanity through education, vigilance and resistance; and be it further

**RESOLVED**: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the United States Holocaust Memorial Council in Washington, D.C., on behalf of the people of the State of Maine.

Came from the Senate, read and adopted.

Was read and adopted in concurrence.

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Resolve, to Reduce Reliance on Pesticides (S.P. 569) (L.D. 1726)

Came from the Senate, referred to the Committee on **Agriculture, Conservation and Forestry** and Ordered Printed.

Was referred to the Committee on **Agriculture, Conservation and Forestry** in concurrence.

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Bill "An Act to Require Full Disclosure of Purpose of Data Collected through the Use of Promotional Products" (S.P. 566) (L.D. 1723)

Came from the Senate, referred to the Committee on **Business and Economic Development** and Ordered Printed.

Was referred to the Committee on **Business and Economic Development** in concurrence.

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Bill "An Act Concerning Firearm Purchase Background Checks" (S.P. 562) (L.D. 1719)

Bill "An Act to Establish and Implement Restorative Justice" (S.P. 570) (L.D. 1727) (Governor's Bill)

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

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

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Bill "An Act Regarding Appointment to the Maine Public Broadcasting Board of Trustees" (S.P. 564) (L.D. 1721)

Bill "An Act to Authorize Interlocal Agreements for Construction and Operation of Public Education Fiber-optic Transmission Systems" (S.P. 568) (L.D. 1725)

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.

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Bill "An Act to Improve Children's Health" (S.P. 551) (L.D. 1677)

Bill "An Act to Ensure Quality Care for Persons with Mental Illness" (S.P. 565) (L.D. 1722)

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

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

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Bill "An Act to Promote Professional Competence and Improve Patient Care" (S.P. 571) (L.D. 1728)

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

On motion of Representative THOMPSON of Naples, the Bill was referred to the Committee on **Judiciary** in non-concurrence and sent up for concurrence.

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Bill "An Act to Require Health-care Providers to Honor Do Not Resuscitate Orders" (S.P. 572) (L.D. 1729)

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

(The Committee on Reference of Bills had suggested reference to the Committee on **Judiciary**.)

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

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Bill "An Act to Amend the Unemployment Insurance Laws" (S.P. 567) (L.D. 1724)

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

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

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Bill "An Act to Amend the Election Laws" (S.P. 574) (L.D. 1731)

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.

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Bill "An Act to Implement the Recommendations of the Great Pond Task Force" (S.P. 573) (L.D. 1730)

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

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

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Bill "An Act to Repeal the Requirement That Victualers Be Licensed by a Municipality" (S.P. 563) (L.D. 1720)

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.

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#### **Ought to Pass Pursuant to Joint Order (S.P. 482)**

Report of the Committee on **Health and Human Services** reporting "**Ought to Pass**" pursuant to Joint Order (S.P. 482) on Bill "An Act to Amend the Maine Health Data Organization Laws" (EMERGENCY) (S.P. 560) (L.D. 1693)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed.

Report was read and accepted. The Bill read once and assigned for second reading Thursday, April 3, 1997.

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#### **Divided Report**

Majority Report of the Committee on **Agriculture, Conservation and Forestry** reporting "**Ought Not to Pass**" on Bill "An Act to Authorize the Maine Land Use Regulation Commission to Regulate the Location and Use of Roads in the Unorganized and Deorganized Areas" (S.P. 200) (L.D. 628)

Signed:

Senators: KILKELLY of Lincoln

KIEFFER of Aroostook

Representatives: BUNKER of Kossuth Township

LANE of Enfield

GOOLEY of Farmington

BAKER of Dixfield

CROSS of Dover-Foxcroft

DEXTER of Kingfield

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-79) on same Bill.

Signed:

Senator: PARADIS of Aroostook

Representatives: SAMSON of Jay

VOLENIK of Brooklyn

SHIAH of Bowdoinham

MCKEE of Wayne

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

Was read.

Representative BUNKER of Kossuth Township moved that the House accept the Majority "**Ought Not to Pass**" Report.

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

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At this point, the Speaker recognized the Representative from Falmouth, Representative Fisk and he was added to the quorum call of the First Special Session of the 118th Legislature.

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#### **PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

The following Bills 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:

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#### **Education and Cultural Affairs**

Bill "An Act to Promote Higher Education" (EMERGENCY) (H.P. 1223) (L.D. 1735) (Presented by Representative MURPHY of Kennebunk) (Cosponsored by Senator PENDLETON of Cumberland and Representatives: CAMERON of Rumford, DONNELLY of Presque Isle, FARNSWORTH of Portland, KERR of Old Orchard Beach, MITCHELL of Vassalboro, RICHARD of Madison, SHANNON of Lewiston, VIGUE of Winslow) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

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#### **Health and Human Services**

Bill "An Act to Provide for Confidentiality of Health Care Information" (H.P. 1225) (L.D. 1737) (Presented by Representative FULLER of Manchester) (Cosponsored by Representatives: LOVETT of Scarborough, PIEH of Bremen,

TOWNSEND of Portland, Senators: LaFOUNTAIN of York, LONGLEY of Waldo, MITCHELL of Penobscot)

**Inland Fisheries and Wildlife**

Bill "An Act to Register New Property for the Thorncrag Bird Sanctuary with the Department of Inland Fisheries and Wildlife" (H.P. 1224) (L.D. 1736) (Presented by Representative LEMAIRE of Lewiston) (Cosponsored by Senator CATHCART of Penobscot and Representatives: DRISCOLL of Calais, FARNSWORTH of Portland, HATCH of Skowhegan, JONES of Bar Harbor, KONTOS of Windham, SAMSON of Jay, SAXL of Bangor, Senator: MICHAUD of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

**Labor**

Bill "An Act to Remove the Disqualification for Unemployment Insurance Benefits for Claimants Who Are Locked Out by an Employer" (H.P. 1222) (L.D. 1734) (Presented by Representative HATCH of Skowhegan) (Cosponsored by Senator CATHCART of Penobscot and Representatives: BULL of Freeport, CLARK of Millinocket, O'NEAL of Limestone, O'NEIL of Saco, RINES of Wiscasset, SAMSON of Jay, STANLEY of Medway, USHER of Westbrook) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

**State and Local Government**

Bill "An Act to Allow Municipalities the Option to Require Residency for Those Who Submit Major Budget Requests to the Municipality" (H.P. 1221) (L.D. 1733) (Presented by Representative WINGLASS of Auburn) (Cosponsored by Representatives: BOLDUC of Auburn, GERRY of Auburn, GOOLEY of Farmington, PERKINS of Penobscot, SAVAGE of Union, WHEELER of Eliot)

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

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

**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on **State and Local Government** reporting "**Ought Not to Pass**" on Bill "An Act to Require That All Legislative Documents Contain a Citizen and Business Impact Statement" (H.P. 196) (L.D. 249)

Signed:  
 Senators: LIBBY of York  
           GOLDTHWAIT of Hancock  
           NUTTING of Androscoggin  
 Representatives: FISK of Falmouth  
                   AHEARNE of Madawaska  
                   GERRY of Auburn  
                   BUMPS of China  
                   SANBORN of Alton  
                   LEMKE of Westbrook  
                   GIERINGER of Portland

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-139) on same Bill.

Signed:  
 Representative: BAGLEY of Machias  
 Was read.

On motion of Representative AHEARNE of Madawaska, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

**Divided Report**

Majority Report of the Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-137) on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Direct Popular Election of Constitutional Officers (H.P. 290) (L.D. 354)

Signed:  
 Senator: LIBBY of York  
 Representatives: AHEARNE of Madawaska  
                   BUMPS of China  
                   FISK of Falmouth  
                   BAGLEY of Machias  
                   GERRY of Auburn  
                   GIERINGER of Portland  
                   KASPRZAK of Newport  
                   SANBORN of Alton  
                   DUTREMBLE of Biddeford

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

Signed:  
 Senators: NUTTING of Androscoggin  
           GOLDTHWAIT of Hancock

Was read  
 Representative AHEARNE of Madawaska moved that the House accept the Majority "**Ought to Pass**" as amended Report.

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

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. This bill has been amended and it is the direct election of the Attorney General of the State of Maine to be popularly elected. This is what I consider to be a direct-democracy initiative, providing the people of the State of Maine an opportunity to elect another statewide official. In fact the AG's Office would become the people's Attorney General, completely independent of this body, the other body and the Executive, as it should be. It would surely be the people's Attorney General.

The issue about campaigns and raising money; that is campaign finance reform and that should indicate every reason why we need campaign finance reform. To all of a sudden raise this issue, at this point in time, there is a problem with it, with electing a Governor, electing State Senators, our US Congressmen and our US Senators. To bring this up at this point, ignoring the fact that we have been electing people, a President of the United States, Governor of the State of Maine, two US Congresspeople, two US Senators, members of this body and members of the other body. I think this bill is absolutely a good bill. This should not be a partisan issue. This will empower the people of the State of Maine with more involvement and everything to bring more people into this opportunity or this institution, one of the greatest forms of government on the face of the Earth, I think, is a very good thing.

I hope you join me in voting to accept the Majority "Ought to Pass" Report.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. I agree with the good Representative who just spoke. I urge you to vote for the overwhelming Majority "Ought to Pass" Report. County prosecutors are elected. County Sheriffs are elected. Why, in any sense, should not the chief enforcement officer of the State of Maine not be elected? I would ask any opponent of the bill to explain to me the answer to those questions. Thank you.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. I am rising in opposition to the pending motion. In all due respect to the Representative from Westbrook, Representative Lemke, it is always easy to frame the question and ask someone else to answer that. I ask you the question. Whenever we consider legislation, the first thing we are always supposedly doing in a committee is asking why. Why are we voting for a change in Maine law? When we are talking about amending the Constitution of Maine, we should not only ask that, we should sit and give it serious consideration. Why propose a change to the Constitution of the State of Maine until you have defined a problem. I haven't heard anyone define the problem. All I have heard is people wanting to change the government of Maine for whatever likeness they foresee. I have not heard anyone define the problem with the election of the Attorney General and the performances of the Attorney General. If there is not a problem, why are we fixing it? You should ask yourself that.

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

Representative GAMACHE: Madam Speaker, Ladies and Gentlemen of the House. This obviously should not be a partisan issue, but it is one of tradition. This chamber has done a very fine job of selecting people to lead us in that area. I see no reason to send this out or broad politicization. I don't see any advantage to that. It is a tradition of which we should be proud. A prerogative which we should cherish. I hope you will join me in voting against the measure. Thank you.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. A question or counterquestion was queried by the good Representative Thompson. He said that you have not heard any particular reason and there has to be a reason for such a law to be proposed. I will attempt to answer that question. We are a democratic form of government. The ultimate basis of a democratic form of government is allowing the people to vote. Through the vote for public policy and action to be determined. We are not an oligarchy where the people's vote is limited or circumscribed. We are the only state in the country that does not allow for an alternative form of election of the Attorney General. I believe, if we want to be a democracy, we should allow the people to vote on whether or not they want this and if they do, to let the people be heard directly. I think democracy is about the best argument that anybody can make for anything in a chamber like this. Unless the Representative wishes to continue on that line I will not further indulge that.

In terms of the statements made by the very good Representative from Lewiston about this being a tradition, there have been a lot of traditions in our history that are very good and are maintained. There are others that are not and are changed over time. This, I believe, falls in the second category. Again, I

urge you to support the overwhelming report of the committee of jurisdiction, support the good Representative Ahearn from Madawaska and vote for popular election. Vote for democracy. Vote for having the people be heard, not a limited number of politicians up here.

Representative TUTTLE of Sanford moved the Bill and all accompanying papers be indefinitely postponed.

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

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 China, Representative Bumps.

Representative BUMPS: Madam Speaker, Men and Women of the House. I just wanted to reiterate a few points that have been made which I think are absolutely important to the members of this body as we consider the legislation before us. The first is that this should not be a partisan issue. I think, that based on reports that is coming out of the State and Local Government Committee, observation should be made clear. Beyond that I want to assure you that I absolutely concur with the points made by Representative Ahearn and Representative Lemke. I also would reinforce the point that Representative Lemke made. I am not sure how many people caught it, but the important thing to remember here is that Maine is the only state in the country that elects their Attorney General in this manner. There are only five other states in the country that don't popularly elect their Attorney General and in those states the Governor appoints the Attorney General. Finally, in the State of Tennessee the AG is appointed by the Supreme Court. I think that the precedence is clear. This is not a partisan issue. This is direct democracy. The people of this state ought to have the right and the ability to elect this position. I urge your support of this bill. Thank you.

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

Representative TOWNSEND: Madam Speaker, Men and Women of the House. I will be supporting the pending motion. I want to explain why. I have been following this issue since I was first elected. I think the first time I voted the other way. Since then, I have read about some experiences in other states which troubled me greatly. Recently, in Connecticut the Attorney General stepped down from his position at the end of his term and went to work for the gaming industry. I found that really disturbing. In Louisiana, the Attorney General resigned from his position following a scandal in which it turned out that he had received enormous sums of campaign contributions from the gambling industry. In California today, there is a scandal currently taking place regarding the popularly elected Attorney General. This is in response to Representative Ahearn's comments. California does have campaign finance reform and under their legislation the candidate for Attorney General was barred from raising sums of money for his own campaign. Nevertheless, he raised enormous sums of money for his political party, which in turn channeled soft money back into his campaign. Campaign finance reform was not sufficient to prevent a scandal related to that office. I am comfortable with the current form of elections, whether we are the only state or not. I will be supporting the pending motion.

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

Representative DUNLAP: Madam Speaker, Men and Women of the House. I also rise in support of the pending motion and in deference to the comments of the previous speakers, while we do have a democracy in this state and in this country, it is not in the truest sense of the word popular. It is

representative democracy, which in its truest sense is redundant. We are elected by the people to do the people's business. It has been the constitutional mandate of this body since its inception to include that in the election of its constitutional officers. I don't see, in my studies, any case where there has been an Attorney General in this state that has misused his or her office or performed anything against the people. The people have been well served by these offices and I don't think we should stand in opposition to the system as it currently runs. I would urge you to vote in favor of the pending motion.

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

Representative GERRY: Madam Speaker, Men and Women of the House. I stand up in opposition of the Indefinite Postponement of this bill. If one of the reasons that you vote against this bill is because you are afraid of the amount of money from political groups and PACs that might influence the Attorney General, we could always throw the Attorney General's race into the Clean Campaign Fund where he would be a clean candidate. He would collect the signatures like we would and have to get the same deposit of money. That would limit the amount of money from outside interests. The other reason I support this bill is that it would increase the number of candidates from other parties, other than those of the two-party system. Other good, qualified candidates can run. Being a legislator of either party or whatever party you represent, that are the only parties that you pull the candidates from. There are other candidates out there in the State of Maine who are good and equally qualified that are not given the chance to compete. Basically, when we are elected and come up here we vote party lines. We don't vote for outside parties. I ask you to vote down this pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Kane.

Representative KANE: Madam Speaker, Men and Women of the House. I think that any time we consider modifying the Constitution of our state, we should look long and hard. That is the bedrock of so much of what we do as legislators. With this particular issue the principle that one can apply is simple. If it isn't broke, don't fix it. Several speakers have attested to the quality of candidates and offices in Attorney Generals, from both parties, over these many years. We have a track record to be proud of and something that we can continue to support. Thank you.

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

Representative AHEARNE: Madam Speaker, Men and Women of the House. I must disagree with my good colleagues who are supporting this pending motion. I believe the State and Local Government Committee looked at this issue. We had long deliberations on this issue. We know what it means to change or propose resolutions or any change to the Constitution. I believe the committee report stands by itself. It is not a partisan issue. I believe that this is right. I believe the people of Maine can make the decision and that they should have the opportunity to elect their Attorney General and have the opportunity to see to it that it is done. I ask you to reject the pending motion. Madam Speaker, I request the yeas and nays.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. I urge you to vote against the pending motion. We have heard some interesting logic on the floor. As I

understand it, we should not allow the popular election of the Attorney General of the state because it might cost a lot of money. I just don't know what the corollary is or how far we develop this. Does that mean that we should not elect the Governor popularly because that costs money? There was a time in the state in the 19th Century where the Legislature elected Governors and I can assure you that did not contribute necessarily to the health and well-being of the state. If you carry this corollary out, it seems to be the argument because elections are becoming expensive, you therefore should not have popular elections. If you follow that through and limit, who are you going to have left. I mean the argument that is being made on the floor is really an argument for real campaign finance reform, not for deforming the democratic system. The committee thought long and hard, looked at all the other states, looked at history and the committee made what I believe was a very good decision. Once again, I encourage you to follow that by definitely voting against the pending motion to Indefinitely Postpone.

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

Representative GAGNON: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative GAGNON: Thank you Madam Speaker. I am concerned about what may happen in the event that we have to remove the Attorney General and how this changes that. My question: what would be the removal of the Attorney General under the current situation and how would that change with the passage of this?

The SPEAKER: The Representative from Waterville, Representative Gagnon has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Madam Speaker, Men and Women of the House. I am not absolutely positive what the procedure is to remove the Attorney General as it currently stands. I believe it would take an order, a joint order, and reconvening both chambers to a special session where we can make a motion to remove the Attorney General. I am not absolutely positive. If he were to be popularly elected, I believe we would follow rules the Constitution of being impeached by this body. An order would be introduced. If it passes, he would therefore go before the other body and he would therefore be tried, I believe.

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

Representative GAGNON: Madam Speaker, Ladies and Gentlemen of the House. I guess we really haven't gotten an answer. We don't know what the details are and because of that I will be voting for the pending motion. Thank you.

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

#### ROLL CALL NO. 69

YEA - Baker CL, Baker JL, Berry RL, Bouffard, Brooks, Bull, Bunker, Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Fuller, Gagne, Gagnon, Gamache, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Mailhot, Mayo, McAlevey, McKee, Meres, 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, Tuttle, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Ahearne, Bagley, Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Brennan, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Cianchette, Clukey, Cross, Dexter, Donnelly, Dutremble, Fisk, Foster, Frechette, Gerry, Gieringer, Goodwin, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, Underwood, Usher, Vedral, Vigue, Volenik, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

ABSENT - Bolduc, Davidson, McElroy, True.

Yes, 72; No, 75; Absent, 4; Excused, 0.

72 having voted in the affirmative and 75 voted in the negative, with 4 being absent, the motion to indefinitely postpone the Bill and all accompanying papers was not accepted.

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

The Bill was read once. Committee Amendment "A" (H-137) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, April 3, 1997.

**Divided Report**

Majority Report of the Committee on **Business and Economic Development** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-130) on Bill "An Act to Increase the Certification Fee Cap for the Board of Geologists and Soil Scientists" (H.P. 363) (L.D. 508)

Signed:

Senators: JENKINS of Androscoggin  
RAND of Cumberland

Representatives: VIGUE of Winslow  
FARNSWORTH of Portland  
SIROIS of Caribou  
SHANNON of Lewiston  
WRIGHT of Berwick

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

Signed:

Senator: MacKINNON of York  
Representatives: BODWELL of Brunswick  
MURPHY of Kennebunk  
CAMERON of Rumford  
MacDOUGALL of North Berwick  
MACK of Standish

Was read.

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

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

Representative MACK: Madam Speaker, Great Honorable Men and Women of the House. I urge my colleagues to join me in voting against the Majority "Ought to Pass" Report. What this would do is, on the surface, it just raises the fees for licensed Geologists from \$65 to \$80 a year. The purpose for that fee increase is so they can change the way the geology test is administered. Currently, if you want to become a licensed geologist, the test would cost you \$20. The change they are proposing in here would move the test up to \$350. What this would do besides raising the fee for every geologist who is already licensed from \$65 to \$80. It would raise the fee for someone who wants to take the test from \$20 to \$350. That is a 1750 percent increase in the fee to take the geology test. This

bill is nothing more than a huge fee increase. Currently, if you are a licensed geologist hopefully the geology test would mean you have a minimum competency in being a geologist. Every geological report that is submitted, the Maine DEP geologists review and go over anyway. They don't care that you are licensed when you submit the report. They review and check on all the reports that are sent in. I spoke to someone who wants to sit for the geology exam. He is training for that. First of all, he is against having to pay \$350 for a test, but he said this is just an entry barrier put in from the existing geologists to try to keep new competition from new geologists out against him.

When the Geology Board was initially passed all the practicing geologists were grandfathered in. Many of the geologists never even had to take a test. In short, this bill besides raising the fee from \$65 to \$80 for every licensed geologist, would change the fee to take the geology test from \$20 to \$350. That is a 1750 percent increase. That is probably, percentage wise, the largest fee increase we will look at all year. I urge my colleagues to vote against the Majority "Ought to Pass."

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

Representative VIGUE: Madam Speaker, Men and Women of the House. I didn't expect to be in this kind of a situation on this particular bill. This was requested by the Board of Geologists and they are asking to increase their fee from \$65 to \$80 per year for the examination. The reason being is they are going from a state examination and they want to take a national examination. The national examination is going to add some cost and this is the reason for the \$15 increase. What we are doing is not giving them an increase, we are giving them a cap and they can work within that cap. All licensing that we supervise through my committee, we handle licensing tasks. We give them a cap which only restricts, that restricts the amount that they can increase. This will allow the geologists to increase their fee up to \$15. That is to pay for that new examination that will, in the long run, save money for the state as we will not have to continue making up different examinations to test these people. They are going to have a national exam which will give them examination in that form. Thank you.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. What you have before you is a real rarity. It is a real Divided Report from Business and Economic Development. I think it is a measure of the good gentleman from Winslow to continually take this to a consensus position in that committee. I am on the "Ought Not to Pass." Primarily we were told during testimony, I think we have heard that a lot of times before, that in the short term if you spend more money in the long term you will save money. We heard that testimony that, rather than a state-generated test, we are going to go to a national test. We were told in testimony that that would result in savings, both for the staff and materials. We felt in the Minority Report that there should be a reduction in either the fees or a reduction in the staff. The minority on the committee had said show us the savings and the savings aren't there, so we voted "Ought Not to Pass."

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

Representative WRIGHT: Madam Speaker, Men and Women of the House. I also am on the Majority "Ought to Pass." This was put in as a board request. Right now it is put together and administered by volunteers. The board feels that they can no longer volunteer their time or their efforts on this. They are looking to nationalize this. The national exam will add some



reciprocity between us and other states. As it is now we have to work with the other states and we can't just cross the line. As far as the DEP, what they do is they take the report and they just review the report. They do not do the actual field work. This will go to relieve a burden on the board on the rest of the geologists and I must add that this is only increased on the geologists and not the soil scientists. What it will do is it will help the State of Maine by allowing other companies to come in here and do the work. I urge you to pass this bill. Thank you.

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

A vote of the House was taken. 72 voted in favor of the same and 65 against, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-130) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, April 3, 1997.

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**Divided Report**

Majority Report of the Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-138) on Bill "An Act Concerning the Fees Charged by the Secretary of State for Copies" (H.P. 410) (L.D. 555)

Signed:

Senators: NUTTING of Androscoggin  
LIBBY of York

Representatives: AHEARNE of Madawaska  
FISK of Falmouth  
BAGLEY of Machias  
GERRY of Auburn  
LEMKE of Westbrook  
GIERINGER of Portland  
KASPRZAK of Newport  
SANBORN of Alton  
DUTREMBLE of Biddeford

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

Signed:

Senator: GOLDTHWAIT of Hancock  
Representative: BUMPS of China

Was read.

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

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

Representative LINDAHL: Thank you Madam Speaker. I have a question for the Chair. Looking at LD 555 and the amendment, (H-138), I was trying to read the fiscal note and if you turn the page, LD 555 and look at the back side and it becomes LD 354.

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

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**Divided Report**

Majority Report of the Committee on **Business and Economic Development** reporting "**Ought Not to Pass**" on Bill "An Act to Repeal the Laws Regulating Naturopathic Practitioners" (H.P. 434) (L.D. 584)

Signed:

Senators: JENKINS of Androscoggin

MacKINNON of York

RAND of Cumberland

Representatives: VIGUE of Winslow  
BODWELL of Brunswick  
MURPHY of Kennebunk  
FARNSWORTH of Portland  
CAMERON of Rumford  
SIROIS of Caribou  
SHANNON of Lewiston  
WRIGHT of Berwick

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-143) on same Bill.

Signed:

Representatives: MacDOUGALL of North Berwick  
MACK of Standish

Was read.

On motion of Representative VIGUE of Winslow, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

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**Divided Report**

Majority Report of the Committee on **Marine Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-136) on Bill "An Act Concerning Regulatory Authority to Protect Certain Marine Organisms" (EMERGENCY) (H.P. 573) (L.D. 764)

Signed:

Senators: GOLDTHWAIT of Hancock  
PENDLETON of Cumberland  
MacKINNON of York

Representatives: ETNIER of Harpswell  
PERKINS of Penobscot  
BAGLEY of Machias  
PIEH of Bremen  
PINKHAM of Lamoine  
VOLENIK of Brooklin  
HONEY of Boothbay  
PINKHAM of Brunswick

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

Signed:

Representatives: GOODWIN of Pembroke  
LAYTON of Cherryfield

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-136) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, April 3, 1997.

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

Divided Report - Committee on **State and Local Government** - (11) members "**Ought to Pass**" as amended by Committee Amendment "A" (H-138) - (2) members "**Ought Not to Pass**" on Bill "An Act Concerning the Fees Charged by the Secretary of State for Copies" (H.P. 410) (L.D. 555) which was tabled by Representative KONTOS of Windham pending the motion of Representative AHEARNE of Madawaska to accept the Majority "**Ought to Pass**" as amended Report.

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

Representative BUMPS: Madam Speaker, Men and Women of the House. I feel compelled to stand briefly and explain why I am the sole Representative on the opposite side of this report. I think that there is a fairly compelling argument for my position. I don't intend to hold this bill up. I will request a division for the sake of getting the sense for how this House stands. For me this is a simple matter. It is part of the House of Representatives micromanaging the operation of the Secretary of State. Currently, you may be aware that the Secretary of State is charging 75 cents for a copy. I don't dispute the fact that that is an outrageous price and that it ought to be reduced. In that respect I support the intent of this legislation. My preference will be to remand this suggestion out to a board in state government on information services that is more capable of handling the price of copies across state government. You may or may not be aware that there is no standard price for photocopying in state government. It seems that that ought to be the case. For me this is a case of micromanaging an agency. I will request a division and thought that the House ought to understand why I had voted the way I did in committee. Thank you.

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

A vote of the House was taken. 91 voted in favor of the same and 40 against, the motion to accept the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-138) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, April 3, 1997.

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**CONSENT CALENDAR**

**First Day**

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

(S.P. 266) (L.D. 874) Bill "An Act to Clarify the Public Safety Laws Concerning Visual Smoke Detectors" Committee on **Criminal Justice** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-72)

There being no objections, the above item was ordered to appear on the Consent Calendar of Thursday, April 3, 1997 under the listing of Second Day.

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**CONSENT CALENDAR**

**Second Day**

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

(H.P. 92) (L.D. 116) Bill "An Act to Amend the Law Regarding Fog Lights"

(H.P. 796) (L.D. 1084) Bill "An Act to Allow After-market Window Tinting of Multi-purpose Vehicles"

(H.P. 162) (L.D. 204) Bill "An Act to Amend the Laws Pertaining to Electricians" (C. "A" H-142)

(H.P. 308) (L.D. 372) Bill "An Act to Require Employees of Public Utilities to Be Licensed When Providing Services Outside the Regulated Activities of the Utility" (C. "A" H-132)

(H.P. 384) (L.D. 529) Bill "An Act to Conform the Lien Procedures Within the Charter of Boothbay Harbor Sewer District to Statutory Lien Procedures" (C. "A" H-133)

(H.P. 500) (L.D. 691) Bill "An Act to Clarify the Sanctions for Violating Laws Relating to Animal Pulling Events" (C. "A" H-140)

(H.P. 533) (L.D. 724) Bill "An Act to Amend the Charter of the Portland Water District" (EMERGENCY) (C. "A" H-134)

(H.P. 651) (L.D. 904) Bill "An Act to Clarify the Audit Requirement of the Maine State Housing Authority" (C. "A" H-141)

(H.P. 748) (L.D. 1025) Bill "An Act Concerning Licensing and Recertification of Licensed Counseling Professionals" (C. "A" H-135)

(H.P. 785) (L.D. 1073) Bill "An Act to Create the Tenants Harbor Standard Water District" (EMERGENCY) (C. "A" H-131)

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

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**BILLS IN THE SECOND READING**

**As Amended**

Bill "An Act to Require Confidentiality of Law Enforcement Officers Involved in Motor Vehicle Accidents" (H.P. 21) (L.D. 46) (C. "A" H-125)

Was reported by the Committee on **Bills in the Second Reading**, read the second time, Passed to be Engrossed as Amended and sent up for concurrence.

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RESOLUTION, Proposing an Amendment to the Constitution of Maine to Change the Manner in Which the Legislature Calls Itself into Special Session (H.P. 336) (L.D. 458) (C. "A" H-144)

Was reported by the Committee on **Bills in the Second Reading** and read the second time.

On motion of Representative DONNELLY of Presque Isle the Resolution was set aside.

The same Representative moved the Resolution and all accompanying papers be indefinitely postponed.

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

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. I hope you do not accept the pending motion. It was felt by the committee that this was a common sense type of situation. I don't believe that a majority of this chamber or the other body would necessarily vote at the drop of a hat or a special session. I believe that when the situation arises, with a need for a special session, we do deliberate that in terms of lengthy deliberation in terms of what cost that would mean and what implications that would mean. I believe this is a simple measure and I believe that the present one would not be heard. I ask you to reject the indefinite postponement. Madam Speaker, I request the yeas and nays.

Representative AHEARNE of Madawaska requested a roll call on the motion indefinitely postpone the Resolution and all accompanying papers.

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 Presque Isle, Representative Donnelly.

Representative DONNELLY: Madam Speaker, Men and Women of the House. You heard some members debate another issue saying that we ought to be careful on how we change and when we change our Constitution. This change, while it seems like a minor change, is another step to allow one-party rule on all issues. There is a division right now and our Constitution allows for us to be called into special session under two fashions. One, and the most frequently used and the one we are in currently, is when the member of the executive calls us back into special session. We come at their call. It is always our option then as a legislative body to adjourn immediately following if we do not agree with the members call. The second, more

rarely used version, is when the Legislature calls itself back into session. When the Legislature calls itself back into session it is much like a joint convention in that it requires a majority of both major parties to enact that call. I have been here when the call was attempted once. I can't recall it occurring. The Governor has called us back previously several times and I suspect that the member of the executive will do so again.

I have not heard a logical or a good explanation on why this dramatic change on the Legislature working together ought to be done. Also, while we are talking about other changes in the Constitution, most of them would bring us closer to line with the rest of the country. This one would set us aside as the only one that does this this way. Other states don't have a mechanism for the Legislature to call itself back whether to require a three-fifths vote or a two-thirds vote or in our case cooperation. Until I am sure, I am sure this is something that we need, I haven't heard an explanation other than we just want it. I would hope that we would refrain from changing the Constitution in this fashion. Thank you.

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

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House. I want you to know that any comments I make are not aimed at any body or any party. I hope that I have the credibility that you can take my word for that. To say the very least, I am disappointed to see this. Most of you know and recall what we have been through in the last two or three weeks. Regardless of what side of the issue you were on, most everybody would agree that some of the things that have happened may have deteriorated some of the goodwill that has been created over the last few years. I think this is a time for healing. I think this is a time to put our differences behind us. I think this is a time to let go. It strikes me that this bill, as Representative Donnelly said, doesn't really seem to have a purpose. We just heard on a previous bill how important it was not to mess with the Constitution. It has been part of our state for many, many years. It has served us well. We heard how deeply we should consider and ponder changes in the Constitution. I don't disagree with any of those things that were set. I would like to see that same standard held to this one. This seems to serve no purpose that I have heard this morning and I am certainly open and listening to what that purpose is. Our method of being called back into special session has served us for many years. I don't see that we need to change that. As much as I hate to say this, I do feel and I emphasize again, I don't know who put this bill in and I don't know where it came from. It is not aimed at anybody.

I am very concerned that this will drive that divisive wedge in by one more hammer blow. I really would be disappointed to see that happen. Again, I think it is time for healing. I don't think that this is part of that healing process. I would very much appreciate if we go ahead and support the Indefinite Postponement of this bill. Thank you.

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

Representative SAXL: Madam Speaker, Men and Women of the House. I appreciate the concerns of my good friends and colleagues of the other party. The good Representative from Presque Isle and the good Representative from Rumford. I, too, share their concern about the aftermath of partisan squabbles and wanting to work with the process that we have here established in the State House. We have a process where we refer legislation to committees of jurisdiction. They work together to try to find common ground. This is an instance where I think you find partisanship being put aside to find what is the right result for the people of the State of Maine. This is not a Divided

Report with Republicans on one side and Democrats on the other. This is a unanimous committee report where people who sometimes have opposing views have come together to do what they believe is right. I urge the members of this body to join and to put an end to rank or partisanship and support a unanimous committee report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Kasprzak.

Representative KASPRZAK: Madam Speaker, Colleagues of the House. I am on the State and Local Government Committee. I did originally vote in favor of this bill. After seeing how easily we call ourselves in and out of special session, I have to disagree and I will be voting against this bill and for Indefinite Postponement. I hope that you will vote with me. Thank you.

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

#### ROLL CALL NO. 70

YEA - Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bragdon, Brooks, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chartrand, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Dunlap, Etnier, Fisher, Fisk, Foster, Frechette, Gamache, Gerry, Gieringer, Goodwin, Gooley, Green, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, Mitchell JE, Morgan, Murphy, Nass, Nickerson, O'Brien, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Pinkham RG, Pinkham WD, Plowman, Poulin, Powers, Richard, Savage, Shannon, Snowe-Mello, Spear, Stedman, Taylor, Thompson, Tobin, Treadwell, Tripp, Underwood, Vedral, Vigue, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor, Madam Speaker.

NAY - Ahearne, Bagley, Baker CL, Baker JL, Bouffard, Brennan, Bull, Bunker, Chizmar, Clark, Colwell, Cowger, Desmond, Driscoll, Dutremble, Farnsworth, Fuller, Gagne, Gagnon, Hatch, Jabar, Jones KW, Jones SL, Kane, Kontos, LaVerdiere, Lemaire, McKee, Meres, Muse, O'Neal, O'Neil, Pieh, Povich, Quint, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Townsend, Tuttle, Usher, Volenik, Wright.

ABSENT - Bolduc, Davidson, True.

Yes, 96; No, 52; Absent, 3; Excused, 0.

96 having voted in the affirmative and 52 voted in the negative, with 3 being absent, the Resolution and all accompanying papers was indefinitely postponed and sent up for concurrence.

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At this point, the Speaker recognized the Representative from Scarborough, Representative Pendleton and he was added to the quorum call of the First Special Session of the 118th Legislature.

#### UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

HOUSE REPORT - "Ought to Pass" as amended by Committee Amendment "A" (H-129) - Committee on **Legal and Veterans Affairs** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Clarify Voting Rights (H.P. 639) (L.D. 864)

- In House, Report read.

TABLED - April 1, 1997 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING - Motion of Representative DONNELLY of Presque Isle to indefinitely postpone Bill and all accompanying papers.

Representative DONNELLY of Presque Isle withdrew his motion to indefinitely postpone the Resolution and all accompanying papers.

Subsequently, Committee Report was accepted.

The Resolution was read once. Committee Amendment "A" (H-129) was read by the Clerk and adopted. The Resolution was assigned for second reading Thursday, April 3, 1997.

HOUSE DIVIDED REPORT - Majority (12) "**Ought Not to Pass**" - Minority (1) "**Ought to Pass**" - Committee on Taxation on Bill "An Act to Exempt Certain Landowners from Hiring a Licensed Forester" (H.P. 782) (L.D. 1070)

TABLED - April 1, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Motion of Representative TRIPP of Topsham to accept the Majority "**Ought Not to Pass**" Report.

Representative TRIPP of Topsham requested that the Clerk read the Committee Report.

The Clerk read the Committee Report in its entirety.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Tripp.

Representative TRIPP: Madam Speaker, Men and Women of the House. I wanted the report read so that you will know that it is a 12-to-1 report. This is a bipartisan report. It was well discussed in our committee. What this bill would do is it would exempt certain landowners from the requirements that a management plan be prepared or certified by a licensed professional forester, for the land to qualify for taxation under the Maine Tree Growth Law. During our committee discussion Charles Gadrick, the Director of the Maine Forest Service, presented opposition to this bill. I will just read to you briefly from his report. "One purpose of the Tree Growth Law is to promote better forest management. This bill takes us in the opposite direction by excusing certain landowners from involving a licensed professional forester in their management plan. It effectively repeals the planning requirement instituted in 1989. Landowners who wish to prepare their own management plan already are permitted under statute to do so, provided that a licensed professional forester reviews that plan. Management planning requirements are not onerous and constitutes a minimum of good business practice if a landowner is truly engaged in growing trees for commercial purposes. In addition, Maine law allows landowners to claim a \$200 tax credit every 10 years for forest management planning expenses. It is easily the cost of having a forester review a landowners management plan." Thank you Madam Speaker.

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

Representative LANE: Madam Speaker, Men and Woman of the House. This bill is a little like stuffing too many things in a closet. You open a door and all of a sudden everything comes tumbling out. Since the bill has been heard, I have been receiving all sorts of reports from people. I am standing against the "Ought Not to Pass" Report. I do want to explain to you a little bit about what has happened. These people who would be exempt from having to hire a forester signed onto tree growth 10 years before and when they signed on there was no mandate in that Tree Growth Tax Law for them to have to hire a licensed forester. They have been doing their own management plan for that length of time and in my case a constituent who asked me to

put the bill in has been managing his land fine. He doesn't like to cut a tree until the top is dead. He has been managing his land since 1939. He is the gentleman that I originally put the bill in for.

We are coming to the deadline of 1999 when he is mandated to have a forester certify his land plan and the estimate he is getting and this is one of the problems currently in tree growth, the estimate he is getting from foresters is \$5 an acre, which at 2,000 acres comes out to \$10,000. Since this bill was heard, let me just say that the day it was heard before Taxation, Taxation had a whole pile of bills. This was sandwiched in between all sorts of other bills. This bill does not ever directly affect taxes in any way. It simply helps those people who signed a contract with the state previous to 1989 maintain that same contract. The contract has been changed by the state in 1989 when these landowners signed on there was no provision in there for them to have to hire a forester to certify their land plan. Many of these people function very well on their own land. I have had calls from small woodlot owners of Maine. Other people have been contacted by the retail lumber dealers. I got calls from people from Freeport, Buxton, Mexico and all around since the bill was heard. It was a little bit like closing the barn door after the horse.

One of the problems that is occurring is one of the original intents of tree growth was to slow down the development of our property and to preserve the forest and keep it a sustainable forest practice. What is happening because of this is that people are getting out of tree growth when they can afford it and more than that people are going to have to overcut their land to pay the cost of the forester to certify their land plan.

I am going to move to recommit this to the Committee on Agriculture, Conservation and Forestry because this is where the bill should have been heard in the first place with people testifying who are foresters and also with people coming to the hearing who are aware of the situation as it involves them in tree growth. Like I said, I have had many calls after the fact. A lot of people would have loved to come testify had they been aware of it. Also, I was told by people from the Small Woodlot Owners of Maine that the information they received, not from the state, but whatever periodicals and so forth they received, was that the hearing was on the 21st of March, when indeed it was a week before that. There has been some confusion surrounding this whole bill. I want to apologize to the House. I don't think I have handled it well. I perhaps should have protected where it was referred to in the beginning. I honestly didn't know. As I said, the problems have come when I opened the closet. I would ask you to support me in the motion to recommit this to Agriculture, Forestry and Conservation. Thank you.

Representative LANE of Enfield moved the Bill be referred to the Committee on **Agriculture, Conservation and Forestry**.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Tripp.

Representative TRIPP: Madam Speaker, Men and Women of the House. If you pass this bill, you are affecting Tree Growth Law and the Tree Growth Tax, Title 36, in this piece of legislation that you see. Title 36 is tax. It is heard by tax. Anything that affects tax is heard by the Committee on Taxation. That is why it was referred to this committee. It had a full public hearing. It was not sandwiched in among a number of other bills. We heard everybody that wanted to speak on this particular bill. I just wanted to clear that up. That is the reason it came to Taxation. It is a tax law change.

On motion of Representative CAMPBELL of Holden, tabled pending the motion of Representative LANE of Enfield that the Bill be referred to the Committee on **Agriculture, Conservation and Forestry** and later today assigned.

HOUSE DIVIDED REPORT - Majority (10) "**Ought Not to Pass**" - Minority (3) "**Ought to Pass**" as amended by Committee Amendment "A" (H-95) - Committee on **Natural Resources** on Bill "An Act to Establish Cost-benefit Analysis for Environmental Rules" (H.P. 433) (L.D. 583)

TABLED - April 1, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Motion of Representative ROWE of Portland to accept the Majority "**Ought Not to Pass**" Report.

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

Representative ROWE: Madam Speaker, Men and Women of the House. I request that you vote for the pending "Ought Not to Pass" motion. This was the vote of 10 members of the Natural Resources Committee on this bill, which is LD 583. The bill title is "An Act to Establish Cost Benefit Analysis for Environmental Rules." It does require that the Board of Environmental Protection make certain determinations about the cost impact. I would invite your attention to the bill. LD 583 would require the Board of Environmental Protection and the Department of Environmental Protection to make determinations which I believe are virtually impossible to make. The determination would rely in large part on estimates and I believe unsubstantiated estimates. If passed, its affect would be to substantially delay rulemaking and it would also significantly increase the cost of rulemaking. Finally, I believe, that it would result in increased litigation.

The bill proposes to do something that is not necessary. I say this because under the new Administrative Procedures Act, which those of you who were here during the 117th, you remember we amended in a major way under that act all agencies, not just the department and the Board of Environmental Protection. You must consider the economic impact of new rules. Moreover, the Administrative Procedures Act requires that all major and substantive rules return to the Legislature before they are finally approved. This is important to understand. In the past, agencies such as the DEP were criticized for making rules that were inconsistent with the intent of the legislation. As I said, the last Legislature changed the APA to reign in rulemaking. Now the draft rules have come back to the Legislature for approval. The changes in the APA also focus on economic analysis of the effects of the rules. For example, in the new APA, they require an agency to consider "all relevant information available to it including, but not limited to, economic, environmental, fiscal and social impact analysis." The information provided to the Legislature with the proposed rules must include to the best of the agencies ability to quote an estimate of the fiscal impact of the bill. "Analysis of the rule including a description of how the agency considers whether the rule would impose an economic burden on small business."

Additionally, for a bill that is reasonably expected to result in a significant reduction in property values, the agency must consider whether various provisions exist in law or in the rule to avoid an unconstitutional taking and whether the expected reduction is necessary or appropriate for the protection of the public safety and welfare advanced by the rule. Colleagues of the House, what I am trying to impress upon you is that the major changes that were made to the rulemaking process two years ago take care of the issues that this bill seeks to address. However, even if the Administrative Procedures Act had not been changed, I would still find substantial fault with the bill. I believe the other nine members who voted with me also would. To begin with, the bill singles out the Department of Environmental Protection and the Board of Environmental Protection and places onerous and in some cases impossible requirement on those bodies. These requirements involve a lot

of guesswork and estimates and they are not based on scientific data.

The 10 members of the committee that voted against the bill were not the only ones who found fault with the bill. In his testimony before the committee, Chris Hall, the Executive Vice President and General Council of the Maine Chamber of Business Alliance stated, "The specifics of LD 583 are unclear in many respects. Our support of the general concept of the bill does not extend to the text you have been presented, which many of our members believe creates problematic issues that are beyond the resources of either the Legislature or the DEP to fully resolve. The bill would create substantial delays in the DEP rulemaking that could have, I believe, devastating effects on the environment. That is because of the hoop that those agencies would have to jump through trying to comply with the bills requirements. The bill would also be very expensive. The DEP has limited resources. Even if a couple of positions were added as this bill would have, it would still take time and money away from the department responsibility to protect the state's national resources."

Finally, the bill would create a litigious atmosphere because the determination is made by the Board of Environmental Protection and would be easily challenged. That is because the standards that are contained in the bill are unclear and involve a lot of estimates and guesswork. For all of these reasons, I urge you to vote with the 10 members of the committee and force the pending Majority "Ought Not to Pass" Report. Thank you.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. Most people, I assume, would agree with the principle of setting expected costs, both direct and indirect, against the expected benefits. It is a proposed public policy to determine whether the latter exceed the former and whether alternative public policy promise to deliver larger or smaller surpluses of benefits to expenses without putting a value on environmental gains. It is almost impossible to know how far environmental policy should go. Should not environmental protection be traded off against economic considerations in the same way that human health, housing, education and other important objectives to reduce income of consumer stockholders and employees due to spending on pollution control and will eventually mean less spending on good and services they value? At this point then, the tradeoff becomes stark. Pollution control spending can sometimes protect health, but at an eventual cost to society for foregone health, education, shelter and other valued things. The real trick in environmental policy or any other government intervention is to ensure that the value of the resulting output is greater than that which must be sacrificed. Protecting the environment often involves conflicts, tradeoffs and choices, which cost benefit analysis will help illuminate diminishing returns, steeply rising costs and the proposed indirect cost of the proposed legislation can also be brought to life by a cost benefit analysis approach.

Most people are not aware of exactly what the cost of stopping the technology are and what type of health consequences will accrue as an enormous portion of our resources are committed to additional attempts to remove pollutants from our air, water and workplaces. One study found people willing to accept risks from voluntary activity, such as skiing, roughly 100,000 times as great as those who would tolerate involuntary hazards, such as food preservatives, which brought about the same levels of benefits. It seems that many people find the idea of one part per billion more frightening than one part per million on the grounds that a billion is a larger number. In a 1994 poll, 60 percent of Americans said they are

concerned about the environment. However, only 6 percent named the environment as one of two or three issues that are most important to them. A TIME/CNN pole in January of 1995 found that 68 percent of respondents agreed that an environmental regulation which address a specific risk to people's health should be subject to analysis to determine whether eliminating that risk justifies the economic cost.

Public opposition to higher taxes acts as a cap, albeit a leaky one, on rising taxes and government spending, but because the cost of complying with government regulations is largely invisible and seldom reported, it has been allowed to rise more rapidly. Surprisingly, perhaps, the public seems to understand the need to cap new regulatory burdens on businesses. We must work to occupy a middle ground between environmental extremism and a casual disregard for environmental protection. Using cost benefit analysis, I feel a lot for that middle ground. An environmental protection policy based on sound science, not empty hype and hysteria. Policies that deliver the biggest bang for the buck and not waste our hard earned dollars is what we should be working for. People have the right to ask whether tiny improvements in air and water quality are worth losing my job or the right to use my property.

I remember many years ago when I was studying zoology in college. I was taking a course in environmental ethics and our professor said to us not to be too stringent on your environmental stances because your stance will someday cause somebody their job that is trying to put food on the table for their families. I never forgot that. Such tradeoffs must be made and that is why it is so important that our policies be based on sound science. Prioritizing the environmental problems that remain will allow us to focus, first and foremost, on those problems that pose the greatest risks to our health and safety are true elements of the natural world that we seek to preserve. A key part of prioritizing risk cost benefit analysis, which is just another way of saying let's get more bang for the buck. Polluters should be held responsible for the damage their pollution causes. Along with that should be an awareness that prosperity is the key to continued progress in environmental protection. Prosperity produces the resources needed to purchase clean air and water, safe food and wilderness preservation. History has shown that prosperous societies value environmental protection, while improvised societies often pollute and destroy the natural environment. The conflict is not the between those who desire better safety and those who do not. It is between those who believe increased wealth and technological progress are the best means of improving health and safety and those who do not.

The price of precaution can not be measured in dollars, but in life. Mortality risks induced by economic expenditures are significant. It has been estimated that for every \$7.25 million taken out of the economy by government results in a loss of one life on average. That is a study that I read. The precautionary principles is a something for nothing proposition. Some would have us believe that improvements could be obtained through regulations and bans at zero cost, but government intervention requires resources; resources diverted from other proven health-improving cost-effective solutions. If the intent of a proposed legislation is to save lives by making some aspect of life safer, then it would seem it would be ridiculous to consider the potential mortality implications implementing the regulations themselves.

These implications include the potential fatalities induced by the cost of the regulations. The current system of environmental regulations has accomplished a great deal over the last quarter century. Environmental protection has been the government's most successful social program. By any objective measure, air and water quality has much improved and people are better protected from many health threats. Prosperity, private property

rights and freedom from an overly intrusive government, all that which we share, do not have to be sacrificed to save the environment. We can have them all, but it requires a new approach to environmentalism that relies more on science and less on hype. Cost benefit analysis will provide that new approach.

Commenting on what was said on the previous speaker, the good Representative Rowe, it seems to me and I have heard the expression that this legislation is premature. You hear that from other pieces of legislation. It seems like any time there is a piece of legislation that makes a little sense, I will argue that this certainly does, the argument from the side from the department that this is premature and we are already doing it. The interesting thing is that if you look at the fiscal note, the requirements for the money in the fiscal note said they need one economist position and one economic research analyst position and related operating costs to perform cost benefit analysis of rule. They are not doing it folks. They say right here that they are not doing. They need an economist position to do it. The other thing that we always see up there and the newcomers might become aware it is that when a bill comes up before a committee and the department doesn't like it or the powers that be don't like it, you get a large fiscal note. If they do like it, they can absorb it within the existing resources within the department.

The DEP has gone a long way towards becoming more friendly to business. I applaud them on that. I have said that many times to the commissioner. I had a speaker come down to my town to address the small businessmen on the small business compliance policy. I think they are going in the right direction. I will take exception to the idea that they are doing a reasonable cost benefit analysis with these new rules and the policy that we put in in the 117th. This will go a great deal toward doing that. It does cost a little bit extra money, if you look at the fiscal note, but I think the investment is well worth it to get some good economic analyses from an economist. I would urge you to vote against the pending motion. Thank you. I would request a roll call.

Representative WATERHOUSE of Bridgton 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 Norridgewock, Representative Meres.

Representative MERES: Madam Speaker, Ladies and Gentlemen of the House. I ask you to support the Majority "Ought Not to Pass" Report on this legislation. Having been on the Natural Resources Committee for my second term, I want you to realize that this is nothing that we haven't discussed before.

Secondly, I want you to realize that there are some things that are intrinsically wrong with legislation. First of all, this is model legislation from a national organization. This legislation was not redrafted to accommodate the needs of Maine. It is just a broiler plate piece of legislation. It does not reflect what we are doing in Maine.

Thirdly, this legislation is premature. If you had listened to previous testimony, we found that we had many people who spoke in favor of the concept of cost benefit analysis, but most often they had said that this is premature because we are dealing now, in our committee, with the first of the rules that are coming back as substantive rules. We, as a committee, have not even had an opportunity to see how the present law works. We don't have a real desire at this point in time to make dramatic changes unless we see that the legislation that we have in place now is not working properly.

Fourth, this legislation is impractical and not easily achieved. I think if you look within the bill there are some things in it. I will read you one particular requirement that says, "The determination of the effect of the rules on competition within the state with other states with regions in regulated communities and on the potential global competition is required." That is quite a large task to find out exactly what this will do globally. There is other legislation in here that is equally difficult. I think that it is something that you ought to know.

The next thing I would like to say is that this legislation is expensive. It is expensive to the environment because we are dealing with delays. It has a fiscal note on it because we are going to have to ask to increase staff in the DEP. I don't know whether or not that is a good or bad idea. I think at this point in time we have just gone through a process to try and curtail that growth. I would like to comment that we have people within the DEP who are working very hard on this issue. They are working alongside the State Planning Office. We don't have people within the DEP who have master's degrees in economics. As far as the statement that was made prior to that that the DEP is not doing this job, they are, but they are doing it with information that is available. The information that is available is not only available to them through other agencies, but through public comment because within the public hearing process that goes along with all these rules, they do solicit testimony on all these impacts.

Also, this bill is selective because it is dealing specifically with one department within the state. If you are going to be dealing with cost benefit analysis on rules, if it is going to be done at all, it should be done across the board. Thank you very much.

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

Representative WATERHOUSE: Madam Speaker, Men and Women of the House. I just wanted to comment on one or two of those comments that the previous speaker, the good Representative Meres, made. It is true that this does single out one agency and it is true that this is model legislation. The model legislation was not for across the state bureaus. I made the comment during the work session that I would be tickled pink if it was amended to include all the state agencies. The other comment that I want to make is on the global competition aspect and the analysis. How many times have we heard in this chamber and in the news and in the papers and from the executive that we are in global competition. We are competing with the whole world. I see nothing wrong, it may be a little harder to do than trying to do it locally, but if we are going to compete globally, we certainly should know what kind of impact we are having with that kind of competition. I see nothing wrong with that. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Foster.

Representative FOSTER: Madam Speaker, Ladies and Gentlemen of the House. I rise and hope you will support the "Ought to Pass" for this bill because it has some merit. The reason it has merit, I am going to give you a couple of illustrations. One of them is plastic cups versus paper cups, for example. We know that plastic cups are much cheaper than paper cups, but we don't know how much it costs to dispose of plastic cups because they are not recyclable. That ought to be investigated to see if we are really wisely spending our money and why we are buying perhaps plastic cups when we should be buying paper, even though they are more expensive at the outset. The other thing is that we do know that it costs about 10 times as much to produce a steel stud for a house as it does a wood stud. Our highways are lined with steel posts. The cost of producing those steel posts is probably about 10 times,

energywise, the cost of wooden posts. The other thing we don't know is how much pollution did it take to produce the steel post. Sometimes we have some things that are hidden here that we should be looking at. I think this bill can do that. Thank you.

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

#### ROLL CALL NO. 71

YEA - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bigl, Bouffard, Brennan, Brooks, Bruno, Bull, Bumps, Bunker, Carleton, Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Fisk, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Joyner, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemont, Lindahl, Lovett, Madore, Mailhot, Mayo, McElroy, McKee, Meres, Mitchell JE, Morgan, Muse, O'Brien, O'Neal, O'Neil, Pendleton, Perkins, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bodwell, Bragdon, Buck, Cameron, Campbell, Cianchette, Clukey, Cross, Dexter, Donnelly, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Kasprzak, Kneeland, Lane, Layton, MacDougall, Mack, Marvin, McAlevey, Murphy, Nass, Nickerson, Ott, Peavey, Pinkham RG, Pinkham WD, Plowman, Snowe-Mello, Stedman, Taylor, Tobin, Treadwell, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Bolduc, Davidson, Joyce, Labrecque, Lemke, Paul, Sirois, Spear, Tripp, True.

Yes, 93; No, 48; Absent, 10; Excused, 0.

93 having voted in the affirmative and 48 voted in the negative, with 10 being absent, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

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

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On motion of Representative KONTOS of Windham, the following item was removed from the Tabled and Unassigned matters:

HOUSE DIVIDED REPORT - Majority (12) "**Ought Not to Pass**" - Minority (1) "**Ought to Pass**" - Committee on **State and Local Government** on Bill "An Act to Amend the Qualifications for the Office of Sheriff" (H.P. 609) (L.D. 834)

TABLED - March 26, 1997 by Representative KONTOS of Windham.

PENDING - Motion of Representative MUSE of South Portland to reconsider acceptance of the Majority "**Ought Not to Pass**" Report.

On motion of Representative AHEARNE of Madawaska, the Bill and all accompanying papers were indefinitely postponed.

On motion of Representative MUSE of South Portland, the House reconsidered its action whereby the Bill and all accompanying papers was indefinitely postponed.

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

Representative MUSE: Madam Speaker, Ladies and Gentlemen of the House. I presented this bill and I would like to speak, if I may, regarding it. The Office of the Sheriff has a long

and colorful history. We can trace it back to the days of the Shire-Reef, where it first began in ancient England. It was basically a property tax collector. You think we have problems with property tax now, it is nothing in comparison to what it was in those days when the Shire-Reef determined your property tax at the whim of whatever he happened to feel like on any given day. The role of the Sheriff has changed dramatically, particularly here in the north. The Sheriff does not wield the power that a Sheriff of Alabama or New Orleans does. It is a very different situation here. Whether they like to admit it or not, the biggest role our Sheriff plays is that of corrections. I am not in favor of any legislation dictating who can or cannot run for an office, particularly in this position. We should take every possible step to remove any barriers so that we can avoid having the only person able to qualify for the job being someone who is politically connected or that perpetuates that good old boy system.

If we are going to concern ourselves with who can and cannot run for this office, we must make certain that we do not shut the door on anyone who is genuinely qualified. That would be a travesty and I believe that it is time that throw the switch on the parameter flood lights and light the situation up. We no longer live in Mayberry RFD and these are not departments made up of Andy Taylor in a squad car while Barney Fife is back at the jail eating Aunt Bea's apple pie. Correction's officers today go through extensive training programs just to get hired and then after completing weeks of training are required to go again to the Criminal Justice Academy for more training within their first year of employment. After all of this, it is the correction's officers who are given mandatory yearly training at a minimum of five topics per year. Police are required none.

I will give you an example of just how unaware some of the people are about their own departments. This is a true story. I repeat it only because it is a matter of court record. I won't say who the individuals are because I am not here to embarrass anyone to simply make a point. There is a Sheriff in our state, I should preface this by saying he had been the Sheriff for two years prior to this incident occurring, he decided one day that he would take a stroll through his jail and see what was going on and what the jail was up to. He had his chief deputy take him into the jail because to that point he wouldn't go into the jail alone. It was 10:30 in the morning and he walked through the jail came back out after no more than five minutes in the jail and stormed into his jail administrator's office, who was on the phone at the time, banged his fist on his table and said, "I want you to do something about this right now. Do you realize it is after 10:30 in the morning and you still have inmates running around in their pajamas?" The jail administrator was a little perplexed and tried to explain to the Sheriff that those were in fact jail uniforms, not pajamas. It is not a bad man, just a policeman who doesn't understand what corrections is all about.

Aside from the fact that this is just simply the right thing to do, there are two very clear issues to look at. The first is the money issue. If these papers that I had distributed haven't already made their way to your trash cans, the first one, the green paper clearly demonstrates if we want to follow the money that is involved in this, a sampling of Sheriff's Departments throughout the state. If we look at Aroostook County, they are spending \$400,000. The Aroostook County Sheriff's Department spends \$400,000 for police services. They spend more than double that in corrections. If we fall all the way down to York County, they are spending just under \$1 million for police services. They spend in excess of double that for corrections. Staggering in Cumberland County where they spend \$1.3 million in police services and \$6.3 million in corrections. Clearly, if the person in charge of these agencies is to have any qualifications, we ought

to be sure that they have some qualifications in the field of corrections. Aside from the money issue, we need to examine the simple effects that the existing laws, which place qualifications for the Office of Sheriff, will have in the coming election next year.

The second piece of paper that you received, the yellow one, is a form that I received. I called the Criminal Justice Academy and I spoke with Steve Georgetti, the Executive Director of the Academy. He sent this piece of paper to me, this form and if you look at the fifth line down it outlines executive certificates. The existing law requires whoever is elected to the Office of Sheriff have an executive certificate. If you follow it all the way across to the end of the line, the Maine Criminal Justice Academy has issued 36 executive certificates. Ladies and gentlemen, there will only be 36 people eligible to run for the Office of Sheriff throughout the entire State of Maine if the election were held today. Five of them are in Cumberland County. That leaves 29 divided amongst the rest of the state who are even eligible to run for Sheriff. I have a breakdown of who is and is not. It is five pages long and I didn't have that copied for you. If anyone would like to see that, I would be happy to provide it for you.

Again, this is not a document that I created. It was provided to me by the academy and when the committee heard the existing bill, that they passed regarding qualification, they did not have this information at their disposal. To qualify for this executive certificate and I have the qualifications here from the academy again, the first requirement is that the applicant must be a full-time paid police chief. We are now stating that in order to qualify and in order to run to be eligible to even run for office, you have to be a police chief. I would say that this is just wrong. Earlier this morning we heard some very impressive and elegant testimony about people's rights to vote. I believe in that and I support that. In order to vote there must be candidates. If we go ahead and leave this so that there are only 36 applicants statewide to run for this office, I believe that we are all going to find ourselves on the short list for a public roasting. I think it would create problems. I would strongly urge you to support the Minority "Ought to Pass" Report. Thank you.

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

Representative JONES: Madam Speaker, Men and Women of the House. I stand in support of Representative Muse today. I would just like to point out that to be the Supreme Court Chief Justice of the United States you don't even need a high school diploma, but to run for Sheriff you need a certificate. I find that a little bizarre. Thank you.

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

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. I would hope you would join in accepting the pending motion before the House and Indefinitely Postpone LD 834. It was the feeling of the committee that we passed unanimously the previous bill that did the same thing except for concerns the good Representative from Portland proposed. That bill is now Public Law. It is Public Law 37. It was enacted by the executive on the 28th of March. That bill restored what was in current law, the requirements that the Sheriffs must meet the academy's qualification standards for the executive law enforcement certificate. We believe, the majority of the committee, a unanimous committee report, believe that those standards imposed necessary, but attainable administrative and management requirements on the chief law enforcement officer of each county.

On LD 834, it was a 12-to-1 report. Twelve voted "Ought Not to Pass" for the reasons why we passed LD 133. In fact, what LD 834 would do would be gutting out one of the most critical



areas of the bill that has just been enacted. It was the feeling by the committee that we did adjust the concerns the good Representative from South Portland arose and that is why we sent a letter to the chairperson of the Board of Trustees of the Maine Criminal Justice Academy, Richard Harberger. It was the majority of the committee that we were uncomfortable with reducing the administrative and management of the qualifications of Sheriff. As a result of our committee discussion and I will read you part of the letter we formed up, we hardly encouraged the Board of Trustees of the Criminal Justice Academy to seriously consider expanding the current executive certificate to include more opportunities for corrections personnel to qualify for the executive certificates or to establish a separate corrections executive certificate to encourage correction officers to advance to executive levels.

Our strong feeling is that although Maine has a history of strong Sheriffs, the citizens of each county and the state, as a whole, can only benefit from having more and better qualified candidates for Sheriff. We believe expanding the pool of potential candidates and this will help that to happen. Please contact the committee if you have further questions. Thank you. I believe we addressed the concerns that the good Representative has brought up in this letter. We already enacted and it is soon to be law, a bill regarding this. I believe that is suffice and I ask you to join me and accept the pending motion.

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

Representative BUNKER: Madam Speaker, Men and Women of the House. As many of you know, I am the sponsor of LD 133 that has since been signed into law. These bills are identical with the exception of the training, college training and the length of service and the gut portions of the executive certificate that are required for you to prove to run for Sheriff. To try to make it a little clearer, this existing law does not say that you have to be a Chief of Police to run for Sheriff. It doesn't say you have to be a Sheriff. What it basically says is you have to meet the minimum college training and service in order to apply for one of those certificates or be granted one of those certificates. The part of the executive certificate that Representative Muse is reading to you is that you would get one of these things after you are appointed Chief of Police in your local municipality. You would apply to the academy and say that I meet all the requirements of education training and supervision and all those things and then they will confer an executive certificate upon you as to recognize your background, your training and your commitment to the field of law enforcement.

To be clear, this has already been tested. This was existing law and it got repealed accidentally. We did have two people run for Sheriff two years ago. They both went through this process. One was approved and one was denied. The process worked. I want you to know that the process is working in my county. There is a gentlemen that is a chief deputy who may very well run for Sheriff, who under the current standing may not be admitted. He is jumping through the hoops, ladies and gentlemen. He is going to be there and he is going to run for Sheriff and that is rightfully so. This is very minimal training. To address the 36 certifications that are out there, that doesn't mean that there are not hundreds of people that meet the requirements to run for Sheriff. The academy made that clear. Honestly, ladies and gentlemen, I probably meet the requirements. I probably could run for Sheriff if I wish to do so. I may have to brush up a little bit or take a 30-hour training or something to put the last tie on the ribbon. I think professional development is something we have to encourage in this office. Unless we encourage professional development and insist that the Sheriff meet these requirements, it is very difficult for that

leader to expect professional development of the officers that serve under him, whether they are law enforcement or corrections officers.

To address Representative Muse's concern about corrections officers. I agree that the academy has currently an executive certificate capability only now for law enforcement officers. I am sure from the letter being sent by State and Local Government and by recommendations from me and others and including Representative Muse, the academy will develop an executive certificate for corrections officers. The existing law, that is in law today, just says you have to meet the training requirements of an executive certificate. It doesn't say a law enforcement executive certificate. It doesn't say a corrections officer. It just says you have to meet it. Where there is no requirement to change existing law in order to comply with the concerns Representative Muse has, we just have to be diligent to follow up on the State and Local Government letter to the academy and also to move forward to make sure that that professional entity, the corrections officers of the state aren't overlooked in their ability to run for Sheriff. I would ask that you would vote for the Indefinite Postponement.

Representative JONES of Bar Harbor requested a roll call on the motion to indefinitely postpone the Bill and all accompanying papers.

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 Bridgewater, Representative Wheeler.

Representative WHEELER: Madam Speaker, Ladies and Gentlemen of the House. As a former Sheriff and one who has been involved in the increased professionalism of the office, I would strongly urge your support of the pending motion. I think that the Sheriff has come a long way in the past 20 years. I think this is going to make one giant step to helping the office become what it should be and what can serve the people in the right way. I would ask your support of the pending motion. Thank you.

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

Representative MUSE: Madam Speaker, Men and Women of the House. Perhaps we are a short distance away from starting to acknowledge qualifications and educational qualifications to run for the Office of House of Representatives as well. I think we need to be careful when we start limiting the citizen's right to vote. I acknowledge and I appreciate the letter that was sent by the committee to the Maine Criminal Justice Academy, but that is not going to happen in time to prevent the fact that there are only 36 people eligible to run for this office. This isn't my document. This is from the Criminal Justice Academy from their records. There are 36 of them. None of them are women, which I think is a shame. I have a strong belief that women play an important role in law enforcement. Again, these are the requirements given to me by the Criminal Justice Academy. I will read it one more time. "Requirement number one, the applicant must be a full-time police chief or sheriff on a Maine Municipal Police Department in order to qualify for the executive certificate." The executive certificate doesn't say law enforcement or corrections, but obviously you must be a police chief in order to qualify for this certificate. I have personally spoken with the seven people in Cumberland County who have executive certificates. None of them have any concern or would even take the job if they doubled the salary. We are looking at a situation in Cumberland County were there may be nobody eligible or nobody even seeking the office. I have no idea what would happen at that point. We are hearing talk about requiring some college courses. The executive certificate as it stands now, with the exception of being a police chief to obtain it, says

that you need a minimum number of college credits, six. That is two classes. These aren't requirements. They are requirements that do nothing more than to close the door on the largest number of members within any Sheriff's Department and perpetuate the good old boys system that we are currently dealing with now. Thank you.

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

**ROLL CALL NO. 72**

YEA - Ahearn, Bagley, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Brennan, Bruno, Buck, Bumps, Bunker, Cameron, Campbell, Carleton, Chick, Cianchette, Clark, Clukey, Cross, Dexter, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisk, Foster, Gamache, Gieringer, Gooley, Green, Hatch, Honey, Jabar, Jones SL, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Kontos, Lane, LaVerdiere, Layton, Lemaire, Lindahl, Lovett, MacDougall, Madore, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, O'Brien, O'Neal, Ott, Paul, Peavey, Pendleton, Pinkham RG, Pinkham WD, Plowman, Poulin, Sanborn, Savage, Saxl JW, Saxl MV, Skoglund, Spear, Stanley, Stedman, Taylor,

Thompson, Tobin, Treadwell, Tripp, Usher, Vedral, Vigue, Waterhouse, Watson, Wheeler EM, Wheeler GJ.

NAY - Baker CL, Berry RL, Bolduc, Bouffard, Bragdon, Brooks, Bull, Chartrand, Chizmar, Colwell, Cowger, Desmond, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Jones KW, Kane, Kerr, Labrecque, Mack, Mailhot, McKee, Mitchell JE, Morgan, Muse, Nickerson, O'Neil, Perkins, Perry, Pieh, Povich, Powers, Richard, Rines, Rowe, Samson, Shannon, Shiah, Sirois, Snowe-Mello, Stevens, Tessier, Townsend, Tuttle, Underwood, Volenik, Winglass, Winn, Winsor, Wright.

ABSENT - Davidson, Lemke, Lemont, Quint, True, Madam Speaker.

Yes, 91; No, 54; Absent, 6; Excused, 0.

91 having voted in the affirmative and 54 voted in the negative, with 6 being absent, the motion to indefinitely postpone the Bill and all accompanying papers was accepted and sent up for concurrence.

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On motion of Representative ROWE of Portland, the House adjourned at 12:05 p.m., until 10:00 a.m., Thursday, April 3, 1997.