

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
11th Legislative Day
Tuesday, April 15, 1997

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

Prayer by Reverend Catherine H. Anderson, Readfield United Methodist Church.

National Anthem by the Westbrook High School Jazz Band.

Pledge of Allegiance.

Doctor of the day, Craig Curtis, M.D., Holden.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Communication: (H.C. 175)

Maine State Senate

State House Station 3

Augusta, Maine 04333

April 14, 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 Marine Resources, the nominations of Robert R. Brown of Edgecomb, David A. Pecci of Topsham, Jennifer S. Bichrest of Cundys Harbor, and David W. Jordan of Scarborough for appointment, and Francis P. Kulle of West Rockport for reappointment to the Marine Resources Advisory Council.

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.

Bill "An Act to Amend the Finance Authority of Maine Act and the Adaptive Equipment Loan Program" (S.P. 602) (L.D. 1780)

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.

Bill "An Act to Create the Maine Governmental Facilities Authority" (S.P. 589) (L.D. 1759) (Governor's Bill)

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.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

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

Business and Economic Development

Bill "An Act to Provide Licensing for Micropigmentation Practitioners" (H.P. 1270) (L.D. 1796) (Presented by Representative TUTTLE of Sanford) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

Criminal Justice

Bill "An Act Regarding Illegal Transportation of Drugs by a Minor" (H.P. 1262) (L.D. 1789) (Presented by Representative BODWELL of Brunswick) (Cosponsored by Senator HARRIMAN of Cumberland and Representatives: BOLDUC of Auburn, DRISCOLL of Calais, LEMONT of Kittery, LINDAHL of Northport, TUTTLE of Sanford, WHEELER of Bridgewater, WHEELER of Eliot, Senator: JENKINS of Androscoggin)

Bill "An Act to Bring the State into Conformity with the Firearms Provisions of the Violence against Women Provisions of the Federal Violent Crime Control Act" (H.P. 1264) (L.D. 1791) (Presented by Representative MITCHELL of Portland) (Cosponsored by Senator PINGREE of Knox and Representatives: FULLER of Manchester, QUINT of Portland, STEVENS of Orono, TOWNSEND of Portland, Senators: ABROMSON of Cumberland, LONGLEY of Waldo)

Health and Human Services

Bill "An Act to Control Brown Tail Moths" (H.P. 1263) (L.D. 1790) (Presented by Representative MITCHELL of Portland) (Cosponsored by Senator AMERO of Cumberland and Representatives: ROWE of Portland, USHER of Westbrook, Senators: ABROMSON of Cumberland, KILKELLY of Lincoln)

Bill "An Act to Decrease Young Adult and Adolescent Pregnancies" (H.P. 1265) (L.D. 1792) (Presented by Representative WINN of Glenburn) (Cosponsored by Senator PINGREE of Knox and Representatives: FULLER of Manchester, KONTOS of Windham, MITCHELL of Portland, PIEH of Bremen, PLOWMAN of Hampden, Senators: CATHCART of Penobscot, DAGGETT of Kennebec, PARADIS of Aroostook)

Judiciary

Bill "An Act Regarding the Activities of Nonprofit Corporations" (H.P. 1266) (L.D. 1793) (Presented by Representative THOMPSON of Naples)

Labor

Bill "An Act to Amend the Provisions of the Disability Retirement Laws Administered by the Maine State Retirement System" (EMERGENCY) (H.P. 1271) (L.D. 1797) (Presented by Representative HATCH of Skowhegan) (Submitted by the Maine State Retirement System pursuant to Joint Rule 204.)

Legal and Veterans Affairs

Bill "An Act to Privatize Liquor Sales" (H.P. 1273) (L.D. 1799) (Presented by Representative KERR of Old Orchard Beach) (Cosponsored by Senator AMERO of Cumberland and Representative: GOODWIN of Pembroke)

State and Local Government

Bill "An Act to Clarify the Qualifications of State Auditor" (H.P. 1269) (L.D. 1795) (Presented by Representative DONNELLY of Presque Isle) (Cosponsored by Senator AMERO of Cumberland and Representatives: CAMPBELL of Holden, FISK of Falmouth, KASPRZAK of Newport, KNEELAND of Easton, MARVIN of Cape Elizabeth, Senator: MILLS of Somerset)

Utilities and Energy

Bill "An Act to Require Notice to Telephone Subscribers of the Sale or Transfer of an Interexchange Carrier or a Change in Rates" (H.P. 1261) (L.D. 1788) (Presented by Representative BUNKER of Kossuth Township) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

Bill "An Act to Create a Competitive Market for Electricity While Protecting Consumers and the Environment" (H.P. 1267) (L.D. 1794) (Presented by Representative KONTOS of Windham) (Cosponsored by Senator BENNETT of Oxford and Representatives: DONNELLY of Presque Isle, MURPHY of Kennebunk, ROWE of Portland, TRUE of Fryeburg, VIGUE of Winslow, Senators: LAWRENCE of York, PINGREE of Knox, TREAT of Kennebec)

Bill "An Act to Permit Electric Utilities to Restructure in Ways That Improve the Economy of the State" (H.P. 1272) (L.D. 1798) (Presented by Representative DEXTER of Kingfield) (Cosponsored by Senator RAND of Cumberland and Representatives: BARTH of Bethel, BRUNO of Raymond, CAMERON of Rumford, LEMONT of Kittery, TUTTLE of Sanford, WHEELER of Eliot, WRIGHT of Berwick, Senator: FERGUSON of Oxford)

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

ORDERS

On motion of Representative McKEE of Wayne, the following Joint Resolution: (H.P. 1253) (Cosponsored by Senator TREAT of Kennebec and Representatives: BISULCA of the Penobscot Nation, MERES of Norridgewock, MORGAN of South Portland, MURPHY of Kennebunk, ROWE of Portland, Senators: BUTLAND of Cumberland, CATHCART of Penobscot, NUTTING of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214.)

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES TO NEGOTIATE A BAN ON ANTIPERSONNEL LAND MINES

WE, your Memorialists, the Members of the One Hundred and Eighteenth Legislature of the State of Maine now assembled in the First Special Session, most respectfully present and petition the President of the United States, as follows:

WHEREAS, antipersonnel land mines are munitions placed by hand under, on or near the ground or other surface area or delivered by artillery, rocket, mortar or similar means or dropped from an aircraft and that are designed, constructed or adapted to be detonated or exploded by the presence, proximity or contact of a person; and

WHEREAS, an average of 71 people, the overwhelming majority of whom are civilians, are killed or maimed every day by antipersonnel land mines; and

WHEREAS, the estimated 80,000,000 to 110,000,000 antipersonnel land mines strewn across at least 64 countries cause havoc in the economies of developing nations: refugees can not return home, farmers can not till the fields, relief

shipments can not be delivered, herd animals can not approach water holes, health care systems are overwhelmed by land mine victims and clearance costs are extraordinary; and

WHEREAS, the ecological and economic impact of antipersonnel land mines has yet to be fully calculated as they render arable land useless and contribute to over-farming of suitable land; and

WHEREAS, the United States has been a major producer and exporter of antipersonnel land mines for most of the past 25 years; and

WHEREAS, the cost, to the American taxpayers of salaries, equipment, transportation and other needs, of removing antipersonnel land mines was approximately \$17,000,000 from 1989 to 1996 and will continue to adversely affect the civilian sector of the United States economy; and

WHEREAS, despite international momentum for a global ban on antipersonnel land mines, a recent United Nations conference failed to negotiate a ban; and

WHEREAS, at the Ottawa International Strategy Conference in Ottawa, Canada in October 1996, the governments of 50 nations adopted the "Ottawa process" recognizing the urgent need for a ban on antipersonnel land mines and outlined actions for reaching a ban rapidly in the hope of signing a treaty to ban antipersonnel land mines in Ottawa in December 1997; and

WHEREAS, in Cambodia, approximately one of every 236 people is an amputee from a land mine injury and there are approximately 7,000,000 to 9,000,000 uncleared land mines or approximately one for each citizen of the country; and

WHEREAS, Maine is home to refugees from Southeast Asia, Afghanistan, Africa, Central America, Bosnia-Herzegovina, Croatia and elsewhere whose lives have been and continue to be directly affected by loss of life, maiming and economic havoc caused by antipersonnel land mines, including those that the United States implanted during warfare in Southeast Asia or exported to other countries, now, therefore, be it

RESOLVED: That We, you Memorialists, urge the President of the United States to fulfill his commitment to negotiate an international ban on the manufacture, stockpiling, transfer and use of antipersonnel land mines, with a view to completing the negotiations as soon as possible, by active participation in the Ottawa process by which an international treaty banning antipersonnel land mines will be ready for signing in December 1997; and be it further

RESOLVED: That the appropriate bureaus, departments or agencies of the State of Maine coordinate with and assist, as far as practicable, community-based organizations or groups with rehabilitating victims of land mines who reside in Maine; and be it further

RESOLVED: That a suitable copy of this resolution be prepared and presented by the Secretary of State to the Honorable William J. Clinton, President of the United States, each member of the Maine Congressional Delegation and United States Secretary of Defense, William S. Cohen.

Was read and adopted and sent up for concurrence. Ordered sent forthwith.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 519 and Joint Rule 213, the following item:

In Memory of:
former Representative Burchard A. Dunn, member of the 117th Maine State Legislature representing the people of Gray and New Gloucester. He served on the Joint Standing Committee on Taxation earning great respect and was also a

founding partner of the public accountant firm of Berry, Dunn and McNeil. He will be sadly missed by his family and all who knew him; (HLS 319) by Representative FOSTER of Gray. (Cosponsors: Senator BUTLAND of Cumberland, Senator CAREY of Kennebec, Representative DONNELLY of Presque Isle)

On objection of Representative FOSTER of Gray, was removed from the Special Sentiment Calendar.

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

Representative FOSTER: Madam Speaker, Ladies and Gentlemen of the House. Representative Dunn was a dedicated husband, father and grandfather. He was dedicated to his community of Gray and served on numerous committees there including, the town council. He also served for many years as moderator at town meetings and also the school budget meetings. He was an accomplished CPA and served on the Taxation Committee in the 117th Legislature. A plaque dedicated to his memory was obtained by his colleagues and now hangs on the wall of the Taxation Committee room. He was an expert in his field and he was gentleman of the first order. Thank you.

Was read and adopted and sent up for concurrence.

REPORTS OF COMMITTEES

Refer to the Committee on Legal and Veterans Affairs

Representative MITCHELL from the Committee on **Health and Human Services** on Bill "An Act to Establish a Residential Care Facility for Veterans in Washington County" (H.P. 532) (L.D. 723) reporting that it be referred to the Committee on **Legal and Veterans Affairs**.

Report was read and accepted and the Bill referred to the Committee on **Legal and Veterans Affairs** and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Appropriations and Financial Affairs** reporting "**Ought Not to Pass**" on Bill "An Act Concerning Submission of the Legislative Budget within the Unified Budget Document" (H.P. 48) (L.D. 73)

Signed:

Senators: MICHAUD of Penobscot

BENNETT of Oxford

CLEVELAND of Androscoggin

Representatives: KERR of Old Orchard Beach

TOWNSEND of Portland

STEVENS of Orono

BERRY of Livermore

POULIN of Oakland

KNEELAND of Easton

LEMAIRE of Lewiston

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-189) on same Bill.

Signed:

Representatives: WINSOR of Norway

MARVIN of Cape Elizabeth

OTT of York

Was read.

On motion of Representative KERR of Old Orchard Beach, the Bill and all accompanying papers was recommitted to the Committee on **Appropriations and Financial Affairs** and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Judiciary** reporting "**Ought Not to Pass**" on Bill "An Act to Remove Immunity for Fraudulent Testimony or Perjury" (H.P. 119) (L.D. 143)

Signed:

Senators: LONGLEY of Waldo

LaFOUNTAIN of York

BENOIT of Franklin

Representatives: THOMPSON of Naples

WATSON of Farmingdale

ETNIER of Harpswell

MAILHOT of Lewiston

POWERS of Rockport

JABAR of Waterville

MADORE of Augusta

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-191) on same Bill.

Signed:

Representatives: PLOWMAN of Hampden

NASS of Acton

WATERHOUSE of Bridgton

Was read.

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

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

Divided Report

Majority Report of the Committee on **Marine Resources** reporting "**Ought Not to Pass**" on Bill "An Act to Return Revenue from Lease Sites for Aquaculture to Municipalities" (H.P. 334) (L.D. 456)

Signed:

Senators: GOLDTHWAIT of Hancock

PENDLETON of Cumberland

MacKINNON of York

Representatives: ETNIER of Harpswell

PIEH of Bremen

PINKHAM of Lamoine

VOLENIK of Brooklin

HONEY of Boothbay

PINKHAM of Brunswick

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-195) on same Bill.

Signed:

Representatives: GOODWIN of Pembroke

BAGLEY of Machias

Was read.

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

Divided Report

Majority Report of the Committee on **Education and Cultural Affairs** reporting "**Ought Not to Pass**" on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Ensure the Rights of Parents to Direct the Upbringing and Education of Their Children (H.P. 341) (L.D. 463)

Signed:

Senators: PENDLETON of Cumberland
SMALL of Sagadahoc
CATHCART of Penobscot

Representatives: RICHARD of Madison
BARTH of Bethel
BAKER of Bangor
BRENNAN of Portland
BELANGER of Caribou
DESMOND of Mapleton
McELROY of Unity
SKOGLUND of St. George
WATSON of Farmingdale

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-185) on same RESOLUTION.

Signed:

Representative: STEDMAN of Hartland

Was read.

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

Representative CAMPBELL of Holden 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.

On motion of Representative KASPRZAK of Newport, tabled pending the motion of Representative CAMPBELL of Holden to accept the Majority "**Ought Not to Pass**" Report and specially assigned for Wednesday, April 16, 1997. (Roll Call Ordered)

Divided Report

Majority Report of the Committee on **Business and Economic Development** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-196) on Bill "An Act to Amend the Laws Regarding the Licensure of Hearing Aid Dealers and Fitters" (H.P. 396) (L.D. 541)

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
MacDOUGALL of North Berwick
WRIGHT of Berwick

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

Signed:

Representative: MACK of Standish

Was read.

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

The Bill was read once. Committee Amendment "A" (H-196) was read by the Clerk and adopted. The Bill was assigned for second reading on Wednesday, April 16, 1997.

Divided Report

Majority Report of the Committee on **Banking and Insurance** reporting "**Ought Not to Pass**" on Resolve, to

Review Health Insurance Benefits Mandated by the State (H.P. 994) (L.D. 1386)

Signed:

Senators: LaFOUNTAIN of York
MURRAY of Penobscot
ABROMSON of Cumberland

Representatives: SAXL of Bangor
PERRY of Bangor
DAVIDSON of Brunswick
O'NEIL of Saco
STANLEY of Medway
JONES of Pittsfield

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

Signed:

Representatives: MAYO of Bath
CARLETON of Wells
WINN of Glenburn
BRUNO of Raymond

Was read.

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

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

Representative MAYO: Madam Speaker, Ladies and Gentlemen of the House. I am one of the four people who recommended that this be an "Ought to Pass" report and would urge that you defeat the motion "Ought Not to Pass" and allow us to move forward with this study.

This Resolve requires the Bureau of Insurance to review existing mandates for health insurance benefits in the same manner as is currently required to review new proposal, for mandated benefits. As many of you, without doubt, know or remember that I have stood at this position and supported most of the mandates that we currently have approved in the last session. However, I do feel that it is time that we take a look at mandates now, that managed care is before us, in the strength that it is. The last time that mandates were really studied was in 1991. There was a brief bureau study in 1994, but not the in-depth study that is being proposed here. This type of comprehensive study of mandated benefits was first proposed by the Maine Health Care Reform Commission two years ago. Unfortunately it was their decision not to move forward with this legislation. I think the time is now to do this and I would urge you to vote against the "Ought Not to Pass" report so that the "Ought to Pass" report may move forward. Thank you.

Representative SAXL of Bangor tabled pending her motion to accept the Majority "**Ought Not to Pass**" Report and specially assigned for Wednesday, April 16, 1997.

CONSENT CALENDAR

First Day

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

(S.P. 80) (L.D. 219) Resolve, to Establish Qualifications for Constitutional Officers Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-99)

(S.P. 141) (L.D. 420) Bill "An Act to Improve the Reporting of General Use Pesticide Sales" Committee on **Agriculture, Conservation and Forestry** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-96)

(S.P. 277) (L.D. 885) Bill "An Act to Amend the Qualifications of the Administrator of the Maine Veterans' Homes" Committee

on **Legal and Veterans Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-97)

(H.P. 400) (L.D. 545) Bill "An Act to Enhance the Penalty for Operating a Motor Vehicle after Habitual Offender Revocation When the Actor Has Had a Prior Conviction for Operating after Revocation or Operating under the Influence within the Previous 10 Years" Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-199)

(H.P. 618) (L.D. 843) Bill "An Act to Regulate Money Transmitters and Amend Consumer Credit Laws" Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-203)

(H.P. 661) (L.D. 914) Bill "An Act Regarding Penalties for Failure to Yield the Right-of-way to an Emergency Vehicle" Committee on **Transportation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-198)

(H.P. 791) (L.D. 1079) Bill "An Act to Create the Cobscook Bay Transit District" Committee on **Transportation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-197)

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, April 16, 1997 under the listing of Second Day.

CONSENT CALENDAR
Second Day

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

(H.P. 234) (L.D. 298) Bill "An Act to Establish the Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending June 30, 1998" (EMERGENCY) (C. "A" H-176)

(H.P. 262) (L.D. 326) Bill "An Act to Streamline the Eviction Process" (C. "A" H-190)

(H.P. 301) (L.D. 365) Bill "An Act to Require That Public Schools Adopt a Conflict Resolution Model" (C. "A" H-186)

(H.P. 501) (L.D. 692) Bill "An Act Concerning the Importation of Marine Organisms That May Be Dangerous to Indigenous Marine Life or Its Environment" (C. "A" H-193)

(H.P. 595) (L.D. 786) Bill "An Act to Increase the Department of Marine Resources' Involvement in Dredge Permitting" (C. "A" H-194)

(H.P. 683) (L.D. 935) Bill "An Act to Increase the Debt Limit of the Waldoboro Utility District" (C. "A" H-178)

(H.P. 750) (L.D. 1027) Bill "An Act to Permit Teachers to Transfer Retirement System Creditable Service Earned as a Teacher's Aide while Employed by a School and Covered by a Participating Local District" (C. "A" H-177)

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

(H.P. 252) (L.D. 316) Bill "An Act to Establish a 30-day Temporary Sea Urchin and Scallop Diving Tender License" (C. "A" H-192)

On motion of Representative CAMERON of Rumford, was removed from the Second Day Consent Calendar.

The Committee Report was read and accepted. The Bill was read once. Committee Amendment "A" (H-192) was read by the Clerk.

Representative CAMERON of Rumford presented House Amendment "A" (H-204) to Committee Amendment "A" (H-192) which was read by the Clerk and adopted.

Committee Amendment "A" (H-192) as amended by House Amendment "A" (H-204) thereto was adopted.

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

Under further suspension of the rules the bill was passed to be engrossed as amended by Committee Amendment "A" (H-192) as amended by House Amendment "A" (H-204) thereto and sent up for concurrence.

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.

An Act to Give an Antlerless Deer Permit to a Person Who Kills 5 or More Coyotes (S.P. 63) (L.D. 182) (C. "A" S-65) TABLED - April 10, 1997 by Representative CLARK of Millinocket.

PENDING - Passage to be Enacted.

Representative CLARK of Millinocket 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 Westbrook, Representative Lemke.

Representative LEMKE: Madam Speaker, Men and Women of the House. What this bill represents is not good wildlife management. What it does is it establishes a bounty system on coyotes. This is a system, by the way, that has been attempted in the past. Some of you may recall when it was attempted on bear. That didn't work out. In fact, in the 80s it was attempted privately on coyotes and that didn't work out. Not only is it a bad method of wildlife management, it is an unworkable one. I urge you to support Representative Clark and vote for Indefinite Postponement of this bill until we get a good bill on this issue.

The SPEAKER: The Chair recognizes the Representative from Dover-Foxcroft, Representative Cross.

Representative CROSS: Madam Speaker, Men and Women of the House. I am not all that wound up about this bill. This is an attempt to control coyotes who are killing at the best estimates between 18,000 and 22,000 deer every year. As far as I am concerned, when we are trying to fund Inland Fisheries and Wildlife through licenses and those kinds of things that it would appear to me that if there was 18,000 to 22,000 more deer available then there would be more hunters and more people shooting deer and more people coming back and spending their money in the State of Maine. Again, as the good Representative Lemke has stated, this has been tried on other animals and this and that and maybe it hasn't worked. Just because something doesn't mean it doesn't work once that doesn't mean it can't work forever. I urge you to give this real consideration in regards to the potential income business as well as controlling coyotes. Nobody knows if it hasn't been tried whether it will work or not. I ask you to give this real deep consideration when you vote. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative FULLER: Madam Speaker, Ladies and Gentlemen of the House. I rise also to speak on this bill. There are a number of serious problems with LD 182. As Representative Lemke already noted, bounties do not work. They will not significantly reduce the coyote population.

Secondly, the bill doesn't even make sense. It would encourage the killing of more coyotes so we can kill more deer. The purpose is to protect deer from being killed from coyotes. What we are doing will promote the killing of antlerless deer most, of which will be females, the gender that most needs protection to help sustain the deer herd. The deer herd would suffer more than coyotes. Third, the bill would increase the risk that wolves would be killed, as well, as naturally find their way back to Maine. We need to protect each and every one to maximize the chances of establishing a self-sustaining population. Fourth, the bill represents a huge step backwards in wildlife management. LD 182 flies in the face of 80 years experience and millions of dollars spent to learn an important lesson. Predators play an essential role in the ecosystem. I urge your support for the motion to Indefinitely Postpone.

The SPEAKER: The Chair recognizes the Representative from Mechanic Falls, Representative Underwood.

Representative UNDERWOOD: Madam Speaker, Men and Women of the House. I find myself in a very uncomfortable position here this morning. As a cosponsor of this bill and a member of the Majority "Ought to Pass" Report, I stand today to ask you to support the Representative from Millinocket and defeat this bill. After very careful consideration after the committee was done with their work and this bill was reported out, information that I received, it is my belief that this bill will do absolutely no good and will do more harm to our environment than it will do good. I ask you to support the Representative from Millinocket and Indefinitely Postpone this bill. Thank you.

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

Representative PERKINS: Madam Speaker, Men and Women of the House. I was glad to hear that from my friend, Representative Underwood. We talked about this a couple of weeks ago. It isn't a huge bill and it will probably end up doing nothing, but it definitely sends messages. It might send a good message back to your area that you are doing something to control coyotes, but in reality you are sending a message that you believe that a bounty will work and we heard earlier that it doesn't hurt to try, but the thing is, my friends, bounties have been tried and tried and tried. At one time there was a bounty in Alaska on Dolly Pardon Trout, which is very similar to our brook trout. There was a bounty at one time in Alaska on the American Bald Eagle. When a lot of us were younger there was a bounty on bear here in Maine. Bounties do not work. It depends on which message you want to send. I think we should just kill this now. Thank you.

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

ROLL CALL NO. 94

YEA - Ahearn, Bagley, Baker CL, Belanger DJ, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Buck, Bull, Bumps, Bunker, Cameron, Carleton, Chartrand, Chizmar, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, Kerr, Kneeland, Labrecque, LaVerdiere, Layton, Lemaire, Lemke, Lemont, Lindahl, Lovett, Mailhot, Mayo, McElroy, McKee, Mitchell JE, Morgan, Muse, Nickerson, O'Neil, Pendleton, Perkins, Perry, Pieh, Pinkham WD, Poulin, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Stanley, Stevens, Taylor, Tessier, Townsend, Tripp, Underwood, Usher, Volenik, Watson, Winglass, Winsor, Wright.

NAY - Baker JL, Barth, Belanger IG, Bodwell, Campbell, Chick, Cianchette, Cross, Dexter, Donnelly, Gieringer, Goodwin, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Lane, MacDougall, Mack, Madore, Marvin, McAlevey, Meres, Murphy, Nass, O'Neal, Paul, Peavey, Pinkham RG, Plowman, Povich, Spear, Tobin, Treadwell, True, Tuttle, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winn.

ABSENT - Fisk, Kane, Kontos, O'Brien, Ott, Stedman, Thompson, Madam Speaker.

Yes, 99; No, 44; Absent, 8; Excused, 0.

99 having voted in the affirmative and 44 voted in the negative, with 8 being absent, the Bill and all accompanying papers was indefinitely postponed and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (11) "**Ought Not to Pass**" - Minority (2) "**Ought to Pass**" as amended by Committee Amendment "A" (H-170) - Committee on **Legal and Veterans Affairs** on Bill "An Act to Remove Instant Lottery Ticket Vending Machines" (H.P. 248) (L.D. 312)

TABLED - April 14, 1997 (Till Later Today) by Representative TUTTLE of Sanford.

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

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

Representative KERR: Madam Speaker, Men and Women of the House. I am asking you to vote against the pending motion and to support the Minority "Ought to Pass" Report. What this bill is it is very simple. It would allow the vending machines for the sale of instant lottery tickets, authorized under a public law, this was an item that was in the budget, the Legislature never voted on this issue. It was in Public Law 1995, Chapter 368, Part WW. Again, WW makes reference to a piece of legislation in the budget document two years ago. These machines must be removed from their location within 30 days after the expiration of a contractual agreement for the placement of these machines. Many of you may wonder what machines we are talking about. These are the machines that when you walk in the Shop N' Save, Shaws and some hotels, these are the machines that are with blinking lights. They say everything but play me. If they had an arm on them, they would be called the one-armed bandit.

I think that many concerns of legislators is that sometimes things are addicting. These machines are addicting. It is instant gratification. That is why people play them. This decision was made without the input of the Legislature and number two without the input of rulemaking. I believe and I have written a letter to the Attorney General that, in fact, if this state wants to continue as it has been doing, predicating its budget and reprojecting revenues to increase the lottery game from a \$2 game to a \$3 game to a \$5 game into a new game called player select. We should at least, under rulemaking, have public input. That has not happened. I know that gambling and gaming will continue in this state. As we all know, the budget is predicated on that. I think that what we need to do is to at least put it out of sight and out of mind. Not at the exit of every grocery store when you walk out so that whatever free change or free bills you have you can put into these machines. Prior to having these machines you used to go up to the counter and purchase your lottery tickets. That was fine and it should stay that way. I am urging you to vote against this pending motion.

The other thing is that there has been a continuing decline in lottery sales and what has the state done. The state turns around the same as they have done with the liquor industry. As sales decline they need to recapture those lost dollars so they raise the price. They raise the price to a \$3 game and the

budget is predicated on that. They reprojected revenues to the tune of some \$20 million so that they could go into the stores and buy these. You just put your money in the vending machine and push a button and out comes a \$3 lottery ticket. In the very near future, in a few more months, there will be a \$5 lottery ticket and then they are coming out with a new game called players select that everybody wins. These are the types of games that are in these machines.

I just made a call over to the Lottery Commission just so I can be a little more precise on types of games that they have in these machines. As we all know, it is the Outdoor Heritage Fund and that is included in this machine also pinball action, hot hand and triple action. I am just asking this Legislature to send a message. Do we truly understand that gaming is going to be part of state government? These machines are too addicting and we continue to cannibalize Maine people. Let's send a message and remove these machines, similar to what they did in California when they chose to remove over 4,000 of these machines that generated over \$200 million. That money was dedicated to education. One of the members of the Attorney General's Office said wait a minute. These are too similar to slot machines. They have to change their law in California to allow these machines to be legal. All I am asking this Legislature is to make a vote. We have never had this opportunity even for a public hearing on these vending machines. There is 200 of them out there. Let's have them removed when their contract expires.

Yes, there will be a fiscal impact in the budget. I would be shirking my responsibilities if I didn't tell you that the fiscal note of almost \$1 million over the next two years. I think that is something we can deal with. That is based on an assumption that 50 percent of the people that are now playing or putting money into these vending machines won't go to the counter and buy the tickets. I think that they will. If they don't, maybe we will have to make an adjustment. I think it is a message that the Legislature can send and that is that we don't want these machines. I urge you to vote against the pending motion and support the Minority "Ought to Pass" Report. Thank you.

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

Representative TUTTLE: Madam Speaker, Men and Women of the House. As Representative Kerr has told you, this bill would require that all lottery vending machines be removed. I would like to repeat that this would result in revenue losses in excess of \$1 million in the upcoming biennium. The Lottery Commission has established safeguards so that young players do not play the vending machines. The lottery has issued guidelines to stores in its agreement, which, in part, includes the following. It says, "Agent agrees to take precautions that will deter the sales of tickets to minors. The precautions will include, but not be limited to, that the agent agrees to place the vending machine in a position that is visible at all times to at least one employee or agent. Furthermore, we have asked the director of the lottery to remind agents of this policy. In short, the machines increase revenues for the general fund. There are adequate safeguards to protect young players and a committee can see no reason why we should remove the machines at this time. I realize there may be a problem between the Representative from Old Orchard Beach, Representative Kerr and the Governor, but in all honesty, ladies and gentlemen, this is not a solution to the problem. I would urge you to accept the Majority "Ought Not to Pass" Report and would request a roll call.

Representative TUTTLE of Sanford requested a roll call on his 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 Old Orchard Beach, Representative Kerr.

Representative KERR: Madam Speaker, Men and Women of the House. There are two issues where I may differ with the good Representative from Sanford. We talk about safeguards. We have those same safeguards when you sell cigarettes. They don't work. That is why this Legislature will be looking at legislation to increase the tax on cigarettes to use as a deterrent. If you look at Shop N' Save, Shaws and in these motels where these some 200 machines are, can you answer me or think for yourselves when you go into the store and you buy your goods and the machine is on your way out, who is watching? The issue is bigger than that, frankly, and it is nothing between the Governor and myself. Frankly, I have heard the Governor on several occasions and he wishes he didn't make this decision. I was hoping that he would come to testify before the committee, but that didn't happen. I think this Legislature will give the governor and all of us an opportunity to vote on an issue and find out where we stand.

It is not a question of whether or not the state is going to be in the gaming business. The state is in and has become more reliant on gaming in this state. As I said to you earlier, the state started off some 2 and a half years ago with a \$2 lottery ticket. Then, we went to an Outdoor Heritage Fund and then we went to a \$3 ticket. The budget is predicated on a \$3 lottery ticket, \$5 lottery ticket and a new game called player select which didn't even go through rulemaking and allow for public hearing, nor has this Legislature even debated those issues on whether that is the course we should take. All I am asking this Legislature to consider is the removal of these instant lottery ticket machines when the expiration of that contract comes up. That is what this Minority Report consists of and I urge your support.

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

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

The SPEAKER: The Representative may pose his question.

Representative VIGUE: Thank you Madam Speaker. To Representative Tuttle or Representative Kerr, whoever could answer it. Who owns these vending machines and who will take the loss if we remove them?

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

Representative KERR: Madam Speaker, Men and Women of the House. These are on contract with a vending company outside the state. I believe Maine is one of 15 states that contract through either G-Tech or Scientific Gaming.

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

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

The SPEAKER: The Representative may pose his question.

Representative VIGUE: Thank you. To go one step further on this. How long is the contract? Are we tied into a long-term contract that will cost us money?

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

Representative KERR: Madam Speaker, Men and Women of the House. To the Representative from Winslow, the bill says when that contract expires, 30 days after those machines will be removed.

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

Representative MURPHY: Madam Speaker, Members of the House. I am going to vote with Representative Kerr today for a variety of reasons. One, I think he is on the right side of the issue. Two, I am very much impressed with the principle stand that he has taken that he would like to go back into the 1995 budget on an item that had no committee action and no public input. I think that after we defeat this pending motion and vote the "Ought to Pass" that he would help me in another effort to go back to the March 1997 budget for an item that had no committee action and no public input. That would be two state liquor stores in Kennebunk on Exit 3.

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

Representative BIGL: Madam Speaker, Ladies and Gentlemen of the House. I am on the Legal and Veterans Affairs Committee and I am on the Majority "Ought Not to Pass" Report. We are here now, not because of something that just happened this moment because of a history. It is a history of gambling and lottery in the State of Maine. As we have evolved through this system, our lottery sales were looking kind of sad. We were competing with Power Ball and other sources so, as a state, we made a decision to go into these instant sales. We are into them. I spent some time in my district listening to people talk. That is something that they want. They had backed off from the lottery and they had wanted these instant sales. The second thing is we are dealing with what people want out there and we are talking about \$1 million over the biennium.

The third thing I want to mention to you is that I did spend some time in the local big grocery store and I found where the machines were located. I watched to see how they were being watched or if they were being watched. I saw some kids going up to the machine and looking them over. No one put their money in and no one attempted to do it. It was an attraction. I looked around and I really didn't see anyone from the store watching. That is one of the reasons why we have come back and said to the commissioner of the lottery to go back out and let the folks know they are supposed to be watching and keeping young kids away from the machines. I urge you to vote "Ought Not to Pass."

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Chizmar.

Representative CHIZMAR: Madam Speaker, Men and Women of the House. My concern is with the \$1 million hole in the budget. A statement was made earlier, I think it is something we can deal with, I think. This is what bothers me. I will be voting "Ought Not to Pass" because I cannot be part of creating a hole in the budget without a solution. Thank you.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr. 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 KERR: Madam Speaker, Men and Women of the House. There are two issues that have come up and I feel that they warrant some discussion. The first one being lottery sales with Power Ball. That is why the lottery games have been declining. That is an accurate statement. It may be because of Power Ball, but I think what it really boils down to is we are really mixing apples and oranges. They are two distinct different issues. The lottery, as you know, is a drawing that is held twice a week. That sale is a \$1 ticket. That is what the people of this state voted for. What I am talking about is the instant ticket games, which are these machines that are inside the stores. It is these machines that I believe people are playing more of and

sales from the previous year were up about \$6 million in this instant game. One reason is because we have moved from a \$1 ticket to a \$2 ticket, which was in place, but in the last two and a half years we have gone to a \$3 ticket, which came out some time in November.

Again, I said the budget is predicated on an additional \$20 million because revenues continue to decline, so the state has chosen to increase the ante. So, \$2 for people playing wasn't enough. It went to \$3 and now we are going to \$5 and now to a new game called player select. If I said that I am not sure whether or not we can take care of this structural gap that this bill may create, it is because there are many bills that will have fiscal notes on them from this Legislature. As you all know, they will go to the Appropriations Table. Even if it is a good bill, if the fiscal note is that we don't have enough resources to pass that bill, no matter how good that bill is, it just won't get the funding and then the bill eventually dies on the Appropriations Table. That decision will take place in the chamber. We will get a feel of what bills are acceptable or what bills we want to expend money on. That is why I used the terminology that I did.

Again, I would urge you to vote against the Majority "Ought Not to Pass" and accept the Minority "Ought to Pass" Report.

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

Representative MUSE: Madam Speaker, Men and Women of the House. With respect to Representative Bigl, who just told us that a few years back when lottery sales were sagging, this option was looked at and we have gone to this route now. I don't believe in any area of sales when your sales are sagging that you should start force feeding your customers. I think you need to develop a better product. These machines have gotten to the point where we almost need to squeeze our way into a public rest room now. I really think they are getting out of control and we need to address that situation. I am not a huge proponent of gambling, although I know we will be looking at other bills later on in this session. I know that we will be looking at a bill that will allow the gambling machines in nonprofit organizations. I would support a bill like that because we are closely monitoring it and we are regulating it. We have control over it. We have lost control of these machines. They are springing up like flowers in the spring. I say we need to take control of that. I agree with Representative Kerr and would urge everybody to vote in that direction.

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

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. I ask you not to vote against the majority of the Legal and Veterans Affairs Committee. We have looked this over closely and there are some parts of it that I am sure many of us do not care for. However, again, we were concerned about another \$1 million deficit. I am amazed to hear my colleagues say that that is okay because we can take care of it. I have sat in the Appropriations Committee and listened and many good bills, as he has attested, have been defeated because there is no money there. Certainly, no matter where you put such a machine and no matter where it is in any store or what have you, there are opportunities for young people to use them. It is the same case with young people today in many of things that we ask them as a society not to do. They find an opportunity to do it. I don't think there have been many cases whereby the laws have not been violated. I think it is wrong unless we and I ask that if we are going to go to this measure, are we going to close all the stores that sell liquor, that sell cigarettes and all the lounges that have such things available. It is pretty difficult to control. I think not. I think there will be a way

to take care of this, but I ask you to support the committee. Thank you.

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

Representative WINN: Madam Speaker, Ladies and Gentlemen of the House. I ask you to support the good Representative from Old Orchard Beach, Representative Kerr and the good Representative from South Portland, Representative Muse for three reasons. One, because they are right. Two, because they are right and three, because they are right. I, for one, don't remember ever as a legislative body making a conscience to increase unsupervised gambling for the children in the State of Maine. I am certain that if we had been allowed to make this as a deliberative decision that we would have decided at that point in time that it was not in the proper, best interest of government to sell our souls so that children can gamble unsupervised. I think that a good argument has been made to support this legislation to put in the Appropriations Table and to battle it out then. I think the issue is that many of us are eager to find money to create new programs when instead we should be looking at our existing budget and the sources of our revenues and perhaps say that maybe we should put off creating some fun new program and instead eliminate a source of revenues that we have no legitimate right to be generating the revenues from.

In particular, a Representative a few minutes ago made a reference to gambling machines next to the bathrooms. Actually he is correct. My husband and I stopped at a rest stop in southern Maine a few months ago and low and behold there were one of these lottery machines right next to the bathroom completely unsupervised. There wasn't one adult anywhere that could watch these machines on a regular basis and certainly no paid staff. I think it is a serious mistake for Maine to encourage unsupervised gambling and I don't think it is right that we should sell our souls for a mere \$1 million. I would appreciate it if you would consider supporting these good Representatives for the three reasons that they are right. Thank you very much.

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

Representative GAMACHE: Madam Speaker, Men and Women of the House. I suspect you probably know by this time that I am no friend of the gaming industry. I still believe that we should reduce our reliance on income from the gambling industry. However, now is not the time and this is not the vehicle to go that route. I urge you to vote "Ought Not to Pass" on this issue.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. I find myself in a very surprised position opposing my good friend from Old Orchard Beach, Representative Kerr. We should not be in a position of micromanaging the business of lottery tickets. We are in the business and we have been in the business for a number of years and I think we should allow the lottery department to run their ability to sell tickets. If we start telling them how to run the business, let's get out of the business. My feeling is we are in the business and this is how they are selling tickets. If we want to take and micromanage, then we might as well micromanage business for everybody. I urge you to accept the Majority "Ought Not to Pass" Report.

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

Representative BUCK: Madam Speaker, Ladies and Gentlemen of the House. I would like to agree with the good Representative from Old Orchard Beach on the principle stand

that he has taken on this issue. When we are talking about children's issues and that is what we are talking about now, I think the overriding concern here shouldn't be the \$1 million that the state is going to receive for this, but the concerns that the good Representative from Old Orchard Beach raised, for example, when he said that these machines are addictive and that it represents instant gratification and that as a policy this is the wrong message that this Legislature should take. I agree with him and I can assume, because of his principle stand, that when further gambling bills come before this House, he will take that same position. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr. Having spoken three times now requests unanimous consent to address the House a fourth time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative KERR: Madam Speaker, Men and Women of the House. I don't apologize for speaking for the fourth time. I think that it is important that I am not suggesting that we micromanage liquor and lottery, but I think that when one makes a decision, we should have the demographics of who is playing instant lottery games. If, in fact, there is a continuing decline in the sales of the lottery, is it something that the state should do by upping the ante so that we can always look at the bottom line that we achieve the money that we need necessary to fund state government. All I am suggesting is that this decision had no public hearing, even other rulemaking, which I believe should have taken place. It was in the budget bill and when these bills went out no one understood how they got out there. I was as surprised as anyone. When we make a decision like that, I think that there should be at least demographics on who plays the lottery. Is it the tourists that play it or is it Maine people who are playing it?

From my analysis and I look at the sales of lottery every month, the sales are pretty much even regardless of what time of the year it is. It is not like the sales increase in the summer. I asked that question. I said, Gee, now that we have gone to a \$3 game and a \$5 game and a new game called players select that will be in these nice pretty machines that flash lights. Why did we end up increasing the ticket sales to \$3 and \$5? You realize that \$5 is a meal for some people. As you know, in the past, there are certain types of gaming I have supported and will continue. The reason why, they said, was because agents heard from people that come in from Massachusetts that we wanted to play for more money, but Maine people don't have the same income of those that come from away. I think that we continue to cannibalize Maine people by playing these instant lottery games because they are addicting. They are. We know that because sales continue to increase and what do we do to further exacerbate the problem, those people that weren't playing the game we said that we would come up with a new game, The Outdoor Heritage Fund, because we will entice them to play because those dollars are going towards the outdoors. That is what we have been doing. I would urge you to vote against the pending motion and support the Minority "Ought to Pass" Report. Thank you.

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

Representative MUSE: Madam Speaker, Men and Women of the House. In regards to us micromanaging, I don't believe we should be micromanaging anything with one very large exception. I think that we have an ultimate responsibility to totally manage the lives and well being of the children of the State of Maine who have total access to these machines and unsupervised access and the blinking and flashing lights. Let's not kid ourselves. These blinking and flashing lights resemble

what. They resemble video games that hook the children and suck the money out of their pockets. Thank you.

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

Representative BARTH: Madam Speaker, Ladies and Gentlemen of the House. As you know, I also am not a proponent of gambling. It is a lousy way of raising money. It is a lousy way of trying to promote economic growth and improve the livelihood of Maine citizens. The problem behind this and other parts of the budget that involve gambling, liquor stores, etc. is the insatiable appetite of government to get more and more and more money. If there is a way to begin the curb that, I am all for it. I would hope that you would support the good Representative from Old Orchard Beach.

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

Representative TUTTLE: Madam Speaker, Men and Women of the House. I don't mean to belabor this issue. I just wanted to add a point that I thought would be very informative for this body before we vote. You have to be aware that if this bill does pass, they must be removed within 30 days after the effective date of the law. My opinion, as chair of the committee, this would create a tremendous problem. It probably would create a possible litigation between the existing contracts and I just wanted to mention that to you. Thank you.

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

Representative BIGL: Madam Speaker, Ladies and Gentlemen of the House. We have talked about a number of stakeholders here. We have brought up all the issues about whether it is right or wrong. There is another stakeholder we have to look at and that is the small businesses across the state. This is obviously a big issue. I think what we should be doing now is going on with the "Ought Not to Pass" and sitting down and putting together a plan if we really want to get rid of this. We should put together a plan so that we take into affect all the stakeholders, every stakeholder. The people who are out there who want this because they are buying it and put together a good plan. I don't think we should do this on a moment right now. I suggest you go with the "Ought Not to Pass."

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

ROLL CALL NO. 95

YEA - Baker JL, Belanger DJ, Bigl, Brooks, Bunker, Chizmar, Colwell, Cross, Etnier, Farnsworth, Fisher, Gagnon, Gamache, Hatch, Jabar, Labrecque, Lemke, Pendleton, Pinkham RG, Poulin, Povich, Rines, Sanborn, Saxl JW, Saxl MV, Shannon, Spear, True, Tuttle, Underwood, Usher, Vigue, Wheeler GJ.

NAY - Ahearne, Bagley, Baker CL, Barth, Belanger IG, Berry DP, Berry RL, Bodwell, Bolduc, Bouffard, Bragdon, Brennan, Bruno, Buck, Bull, Bumps, Cameron, Campbell, Carleton, Chartrand, Chick, Cianchette, Clark, Clukey, Cowger, Davidson, Desmond, Dexter, Donnelly, Dunlap, Dutremble, Foster, Frechette, Fuller, Gagne, Gerry, Gieringer, Gooley, Green, Honey, Jones KW, Jones SL, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Lane, LaVerdiere, Layton, Lemaire, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nass, Nickerson, O'Neal, O'Neil, Paul, Peavey, Perkins, Perry, Pieh, Pinkham WD, Plowman, Powers, Quint, Richard, Rowe, Samson, Savage, Shiah, Sirois, Skoglund, Snowe-Mello, Stanley, Stevens, Taylor, Tessier, Thompson, Tobin, Townsend, Treadwell, Tripp, Vedraf,

Volenik, Waterhouse, Watson, Wheeler EM, Winglass, Winn, Winsor, Wright.

ABSENT - Driscoll, Fisk, Goodwin, Kane, Kontos, O'Brien, Ott, Stedman, Madam Speaker.

Yes, 33; No, 109; Absent, 9; Excused, 0.

33 having voted in the affirmative and 109 voted in the negative, with 9 being absent, the motion to accept the Majority "Ought Not to Pass" Report was not accepted.

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

The Bill was read once. Committee Amendment "A" (H-170) was read by the Clerk and adopted. The Bill was assigned for second reading Wednesday, April 16, 1997.

HOUSE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (H-168) - Committee on **State and Local Government** on Bill "An Act to Make the Commissioner of Inland Fisheries and Wildlife an Elected Position" (H.P. 698) (L.D. 962)

TABLED - April 14, 1997 (Till Later Today) by Representative AHEARNE of Madawaska.

PENDING - Motion of same Representative to accept the Minority "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. I hope that you would join me and accept the Minority "Ought to Pass" Report. I have always believed in direct democracy initiatives. I believe that this is a good initiative. Any issue, any type of opportunity, to involve more people into the political system and our form of government, I think is a very good thing. This is something out of the ordinary, but I think the Commissioner of Inland Fisheries affects many people across this state and I believe this is one example where we can have a direct election. I ask you to support the pending motion. Madam Speaker, I request a roll call.

Representative AHEARNE of Madawaska requested a roll call on his motion to accept the Minority "Ought to Pass" as amended 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 Millinocket, Representative Clark.

Representative CLARK: Madam Speaker, Men and Women of the House. I rise today in support of the "Ought to Pass" as amended Report. The Commissioner of Inland Fisheries and Wildlife has had a tough time over the last couple of years. The department has had budget deficits over the last two years. They have gone through tremendous changes. The people of the State of Maine, especially the sportsmen should have a say of who the Commissioner of Inland Fisheries and Wildlife should be. Over the last couple of years, the commissioner has had brief open sessions with sportsmen around the state to try to get their input.

In one instance, a meeting in Millinocket occurred when a sportsman raised his hand and asked when the next moose hunt would be for this year. The commissioner said he had no idea of when that would be and that it was way too soon. He asked some of the people that were with him. The very next day, in all the newspapers and on the television stations throughout the state the moose season was announced. You can't tell me that the Commissioner of Inland Fisheries and Wildlife did not know

when the moose season was going to be. The people of the state should have a say in the Department of Inland Fisheries and Wildlife. If they elect a commissioner, the commissioner will listen to the people more because he is elected by the people of the state.

When you have a commissioner that is appointed, they usually take the course of what the Governor has to say. When it is an elected position, they usually go by the people. A commissioner should have the qualifications that outline the Warden's Department, administrative, fish administration, hunting and fishing regulations, budget process and things like that, not qualifications that just have one specific part of a puzzle. I hope you join me today in supporting the Minority "Ought to Pass" Report. Thank you.

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

Representative CHICK: Madam Speaker, Ladies and Gentlemen of the House. I would rise this morning to speak about the various positions that serve at the pleasure of the Chief Executive. This has served the state well for many years and what we are talking about here this morning, which is leadership for Inland Fisheries and Wildlife. They have been served by some outstanding commissioners and I would certainly ask that you would defeat this motion and support the motion that this position would be elected. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative MAYO: Thank you. I would like to ask a question of the House Chair of the committee as to whether or not the committee is considering further commissioners to be popularly elected?

The SPEAKER: The Representative from Bath, Representative Mayo has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Sanford, Representative Paul.

Representative PAUL: Madam Speaker, Men and Women of the House. As I said earlier in our meeting today, I believe some people when they see in this bill, "An Act to Make the Commissioner of Inland Fisheries and Wildlife an Elected Position" they somehow think they came before the joint standing committee of jurisdiction. It did not come before my committee so I did not have an opinion from the committee as a whole how they feel on this. As chair of the Inland Fisheries and Wildlife Committee I will say this, I support the present Fisheries and Wildlife Department. Having been in the police department and worked under various chiefs there is always someone that doesn't like the chief that we have on board. The next move is to make drastic changes. We must learn to work and work together to make our job and the departments operation work together. I want to make this department the best Fisheries and Wildlife Department in the State of Maine that we have ever had.

I think, at the present time, I feel very sure that the present situation we are under now we have checks and balances. These candidates for commissioners, the one that is posted, is closely examined by the committee of jurisdiction, Inland Fisheries and Wildlife. I would certainly hope it would remain that way. We have to rely also on the Chief Executive of this state on his recommendations on the name that he posts for us to consider. I don't believe we should go ahead and make any changes at this time and I sincerely hope that you will vote not to accept the report "Ought to Pass" as amended. Thank you.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Colwell.

Representative COLWELL: Madam Speaker, Men and Women of the House. I rise to support the committee's "Ought Not to Pass" Report. I think this is, although certainly some of the arguments are compelling, Fisheries and Wildlife does touch a lot of people's lives in this state. I would ask the question, the Public Safety Commissioner touches more lives, are we going to elect the Public Safety Commissioner? The Department of Human Services Commissioner touches more lives, are we going to elect the Department of Human Services Commissioner? I think this is just a bad idea and a very troubling precedent. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative McALEVEY: Madam Speaker, Men and Women of the House. I rise in opposition to this legislation this morning for a couple of reasons. I think it is important that we hold our commissioners close to us vis-a-vis the executive. If we have a problem or a question, we can go right to the commissioner's office and ask whichever department it is. I think, with events of late, considering what has been in the papers lately about the Warden's Service there are many, many fine men and women that represent us through the Maine Warden Service. However, as of late, I have some real questions concerning the commissioners ability to handle what has been happening lately. I think if we made that position elected, that commissioner would be even more aloof. I think he is aloof enough as it is.

A few years ago we changed the funding formula on how that department is funded and we dedicated monies to them through a state-initiated referendum. I think along with that, that fostered an attitude of aloofness in that department that I think is dangerous to the people of the State of Maine. The committee of jurisdiction had to send a letter to the commissioner demanding questions be answered that he was reluctant to answer. Can you imagine if he was elected to this position now? He would say that he is not answerable to you, I am answerable to the people who elected me. I think we need to bring that department in under a little more rein and a little more closer to the policy makers, i.e. us and make them a little more responsible to the people of the State of Maine. I think if this bill does pass, it will just lend itself to allow whoever the commissioner may be to be even more aloof and that is a danger. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Minority "Ought to Pass" Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 96

YEA - Ahearn, Bolduc, Chizmar, Clark, Gerry, Hatch, Lemke, Rines, Stanley, Tuttle, Underwood, Waterhouse.

NAY - Bagley, Baker CL, Baker JL, Belanger DJ, Berry DP, Berry RL, Bigl, Bodwell, Bouffard, Bragdon, Brennan, Brooks, Bruno, Buck, Bull, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Cianchette, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Dexter, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Gieringer, Green, Jabar, Jones KW, Jones SL, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Kontos, Labrecque, Lane, LaVerdiere, Layton, Lemaire, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nass, Nickerson, O'Neal, O'Neil, Paul, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Pinkham WD, Plowman, Poulin, Povich, Powers, Quint, Richard, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stevens, Taylor, Tessier, Thompson, Tobin, Townsend, Tripp, True, Usher, Vedral, Vigue,

Volenik, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

ABSENT - Barth, Belanger IG, Donnelly, Fisk, Goodwin, Gooley, Honey, Jones SA, Kane, O'Brien, Ott, Stedman, Treadwell, Winsor.

Yes, 12; No, 125; Absent, 14; Excused, 0.

12 having voted in the affirmative and 125 voted in the negative, with 14 being absent, the Minority "**Ought to Pass**" as amended Report was not accepted.

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

HOUSE DIVIDED REPORT - Majority (11) "**Ought to Pass**" as amended by Committee Amendment "A" (H-174) - Minority (2) "**Ought Not to Pass**" - Committee on **State and Local Government** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish 4-year Terms for Constitutional Officers (H.P. 855) (L.D. 1160)

TABLED - April 14, 1997 (Till Later Today) by Representative AHEARNE of Madawaska.

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

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

Representative LEMKE: Madam Speaker, Men and Women of the House. I urge you to vote against the pending motion and let me explain why. What this does is it would make four-year terms for constitutional officers, such as the Attorney General or the Secretary of State. As you know, I believe in the popular election of these individuals and if they were popularly elected as the Governor is, then a four-year term would be okay. The fact of the matter is that they are not. They are elected by us. The Legislature determines every two years who or whom the constitutional officers will be. If you support this, let me just spin out a scenario. Let us say that the Republican Party wins this House in the next election and determines constitutional officers. Two years later, the Democratic Party come back and they have this House, they in affect have a veto, if they are a majority, over determining who or whom the constitutional officers are. You can change it around with Democrat and Republican. Under the existing system, this totally takes away the power that we presently have to elect these constitutional officers. It doesn't make sense.

Secondly, since we, the Legislature, now determine the constitutional officers as we operate no Legislature is bound by the action of the prior Legislature, but under this you would be, which, again, doesn't make sense. I urge you to vote against this measure on grounds of common sense.

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. 16 voted in favor of the same and 93 against, the motion to accept the Majority "**Ought to Pass**" as amended Report was not accepted.

Subsequently, the Minority "**Ought not to Pass**" Report was accepted and sent up for concurrence.

TABLED AND TODAY ASSIGNED

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

Expression of Legislative Sentiment recognizing Thomas Santaguida of Kennebunk (SLS 89)

- In Senate, Read and Passed.

TABLED - April 10, 1997 by Representative MURPHY of Kennebunk.

PENDING - Passage in concurrence.

On motion of Representative KONTOS of Windham, tabled unassigned pending passage in concurrence.

Expression of Legislative Sentiment recognizing Paul Crowley (SLS 91)

- In Senate, Read and Passed.

TABLED - April 10, 1997 by Representative MURPHY of Kennebunk.

PENDING - Passage in concurrence.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. We are proud of our Paul Crowley at Kennebunk for many reasons. One of those being his winning the State Spelling Bee. I heard a rumor, also, that I think he is the only male in recent history that has won that contest. At the end of May he will be headed down to Washington for five days to compete in the National Spelling Bee. He is the son of Janet Crowley a third grade teacher at the Park Street School in Kennebunk and Judge Robert Crowley. We know this is the first of many honors that Paul Crowley will be bringing to the school in Kennebunk and to our state. Well done Paul and good luck representing the State of Maine in May.

Was read and passed in concurrence.

An Act to Enhance the State's Moose Hunt (H.P. 774) (L.D. 1051) (C. "A" H-151)

TABLED - April 14, 1997 by Representative LEMKE of Westbrook.

PENDING - Passage to be Enacted.

On motion of Representative PAUL of Sanford, tabled pending passage to be enacted and specially assigned for Wednesday, April 16, 1997.

An Act to Amend the Maine Health Data Organization Laws (EMERGENCY) (S.P. 560) (L.D. 1693)

TABLED - April 14, 1997 by Representative SAXL of Portland.

PENDING - Passage to be Enacted.

On motion of Representative KONTOS of Windham, tabled pending passage to be enacted and later today assigned.

HOUSE DIVIDED REPORT - Majority (9) "**Ought to Pass**" - Minority (4) "**Ought Not to Pass**" - Committee on **Labor** on Bill "An Act to Prohibit an Employer from Hiring Replacement Workers During a Strike" (H.P. 41) (L.D. 66)

TABLED - April 14, 1997 by Representative HATCH of Skowhegan.

PENDING - Motion of same Representative to accept the Majority "**Ought to Pass**" Report.

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. I rise in opposition to this motion and there are many, many reasons why I do. First of all, these are preempted by our federal law. The Attorney General given an opinion two years ago and again this year and I don't think that that opinion is going to change. We also have to consider that there can be severe penalties imposed upon the state. There have been law cases which has indicated just that. I think that to

go ahead and pass this type of legislation when we know it is preempted and we know it is going to put the state in jeopardy is not not acting in the best interest of the people of the State of Maine. I urge you to defeat the pending motion and accept the "Ought Not to Pass." Thank you.

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

Representative AHEARNE: Madam Speaker, Men and Women of the House. This bill will create a level playing field. When labor and management come together to negotiate a new contract through collective bargaining, both parties should bargain in good faith. Currently, the playing field is not level and labor is at a disadvantage. Hypothetically, if management so chooses they could present a contract with the knowledge that the unions could not accept the contract. As a result, the union members might vote to reject the contract and the majority of the workers might vote to strike. Management would then hire replacement workers and in effect break the strike or attempt to bust the union.

Under current law, workers have a right to form unions and as a union they have the right to strike if a majority or in some cases two-thirds of the union members vote to strike. This bill would prohibit the permanent employment of replacement workers thus ensuring workers that upon the end of the strike they will retain their jobs. Without this legislation the ability to strike is removed. If this bill were to pass and become law, it would not open a flood gate of strikes. No union would go on a strike at a drop of a hat. Many union members know the consequences in terms of lost wages and realize that to use the right to strike carelessly would be irresponsible and would cause workers to suffer severe economic hardship. I cannot emphasize enough that the major point of this legislation is to guarantee fair and equal labor management negotiations. This bill provides that once a strike is over or the workers agree to return to work those workers will be hired back and that replacement workers will not be retained in preference to the striking workers. This bill does not ban the use of replacement workers, but does prohibit replacement workers from being given preference in employment after a strike is terminated, thus ensuring that the ability of workers to strike remains a part of the collective bargaining process. I urge you to accept the Majority "Ought to Pass" Report and Madam Speaker, I request a roll call.

Representative AHEARNE of Madawaska requested a roll call on the motion to accept the Majority "Ought 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 Jay, Representative Samson.

Representative SAMSON: Madam Speaker, Men and Women of the House. This is not an easy subject for me to discuss. I have thought hard of how to explain this legislation. I am standing here in support of LD 66. Labor relations have changed in this country and in the State of Maine over the past 10 or 15 years. I guess the best way for me to explain it is the first time I realized what a strike was and that was when I was 17 or 18 years old. There was a strike in Rumford, Maine in 1964. My future father-in-law was involved in that strike at Oxford Paper and they were out most of the summer. At some point in time they reached a settlement and they were brought back to work. I will always remember my father-in-law telling me that when he returned to work all of management and the supervisors were there to shake his hand as they returned. He went back along with the others and they continued to make the best paper in the world.

There was another strike at that mill. This time it was Boise, Cascade. That occurred about 15 years later. That strike lasted just a few weeks and again the workers returned to work and made the best paper in the world. I remember the strike at BIW in 1985 and the workers there were out on strike for 12 weeks. I remember driving by the picket lines and I remember walking on the picket lines. Those workers, after a settlement, returned to work and continued to make the best ships the Navy has. Things changed at that time.

In 1986, again, there was a strike at Boise Cascade in Rumford. This time the company was more powerful and with more resources decided to permanently replace workers department by department. The strike lasted 11 to 12 weeks and when the strike was called off a third of the workers there, over 300 workers, were permanently replaced. Gradually, over time those workers returned to work that wanted to.

In 1987, I was involved in a strike in Jay, Maine, at IP. Prior to the strike, we tried to extend the contract one year and we tried to extend the contract two years. The company knew what buttons to push and we went out on strike. The strike breakers were already on the site prior to the actual strike. There were 60 trailers there to house 10 workers a piece. They are all situated and lined up by the pulp mill. When I walked out the gate I looked back and I saw hundreds of workers that came in from out of state to take the place of the long-time workers of that mill. The strike lasted 16 months with all 1,200 people being permanently replaced. I remind you that 31 percent of the people that came in to that strike were from the south. I have nothing against the workers. I have, personally, nothing against the replacement workers, but I think the act of the company was unethical and frankly immoral. The majority of the workers in that place had a lot of years. The average worker had more than 15 years. A lot of the workers that were replaced had 35 or 40 years of seniority in that mill. I learned this week that my cousin returned to work after nearly 10 years of being out. I urge you to please support this ban on permanent replacements. Thank you.

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

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. I am rising in opposition to this bill. I am not in opposition to labor having the right to strike. I have worked a long time in the State of Maine. I worked in the Labor Department. I have dealt with a great number of strikes while I was in that department. My first recollection of a strike where the employees were replaced was back when I was in high school when a small company in Aroostook County by the name of Sherman Lumber Company had a strike in which they decided to take the steps to replace everybody and two of my real good friend's fathers were replaced at that mill.

The history of replacement workers and the reason that a preemption came about dates back to 1938 when a little company called Belmont Electric decided to replace their 18 employees who had gone on strike. They did so because they felt it was an economic weapon to be used in ending the strike. That went before the National Labor Relations Board. The National Labor Relations Board, at that time, said that basically, hiring replacement workers was legal and it was a valid tool to be used by management in an economic strike. We have to recognize that point of time. Since then there have probably been over 100 cases resolved. Labor law and national labor relations law has resolved over the years case by case.

Each case that came before the National Labor Relations Board and the Supreme Court cemented the position that hiring economic workers was a legal thing to do and, therefore, if anybody passed a law or made moves to correct that economic

issue then a situation would be that it would be preempted and illegal. Because labor law has progressed along and the issue has gotten deeper and deeper in 1989 the US Supreme Court ruled that the National Labor Relations Board prevents state and local governments from interfering with the economic weapons of an employer and employers during a labor dispute. They did this in the *Golden State Transport vs. the City of Los Angeles*. This one seems very interesting because now introduced into it was the fact that whoever changes the rules that are wrong could suffer a financial risk. In this particular case, the City of Los Angeles ended up paying \$11 million in legal fees. This is just something that could happen. If we pass this law and try to create a level playing ground, which we won't, because it would be found to be illegal by the Supreme Court at this time, then we are putting ourselves at financial risk for future damages for legal fees. The City of Boston found this out with their employees and they ended up paying over \$3 million. I think we ought to take a very strong position on this and give it an "Ought Not to Pass."

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

Representative BOLDUC: Madam Speaker, Fellow Members of the House. I rise today in strong support of these two bills that we will be looking at today. I firmly believe that we are morally bound to evaluate social practices that define normality and are required to pursue the change of unjust laws and immoral practices. With this in mind, I would like to put to rest some of the arguments that will be made by the opposition today. Opponents will cite that the decisions of the Judicial Branch of Government will make our efforts null and void, or that the executives are not supportive or that the Attorney General's opinion is not favorable. I would put forth that this is a defeatist and an unhealthy attitude. The fact of the matter is that court opinions and laws are a reflection of public opinion and public opinion can and has been changed many times in the face of unjust laws.

All one has to do is look at our history. In the early 1800s, for example, dozens of cases came before the Supreme Court of the United States, which upheld human bondage. In 1862, Abraham Lincoln signed the Emancipation Proclamation. The legislative branch is the form for public opinion on the issues of the day. This body and its actions can and have changed the actions not only of the Executive, but also of the Judicial Branch of government. This change will not occur if we take the defeatist attitude, that we are somehow prevented from creating a sense of change because of the warped perception of those who would make themselves opponents of change. The arguments of the opposition are the same arguments of fear and irrelevancy that have always been made in the past. We see the same attitude standing in the way of progress throughout American history in this century starting with the Child Labor Laws, which were passed at the beginning of this century by a rather progressive group of individuals. We see the same arguments being made in opposition of those laws and throughout history every time a progressive piece of legislation comes before a legislative body.

We see it in the 1930s with the new deal legislation. We see it in the 1960s, the same argument of the opponents of change who bring up fear tactics to stand in the way of that change. In the 1960s, again, with Medicare and the Civil Rights Act and recently with some of the healthcare debate, which has taken place in the nation. All are considered radical ideas are now considered the bedrock of a decent society.

I dare not waste much time on the moral arguments of this bill. They are clear. All one must do is view the parties' involvement and the effects it has had on our community to note the countless injustices this state and its citizens have bearded

in the name of business. I respectfully urge my colleagues to send a very clear message to the nation that Maine will not tolerate such injustices and that this legislation will not be intimidated by powerful interest groups over the very clear wheels of the people who spoke very clearly, as to the wishes of this body this past November. Make no mistake about it. That is why this bill will pass this House.

Finally, I challenge the opposition to think very carefully about the moral implications of this bill. It empowers those individuals who contribute their life's energy and efforts in an endeavor of which they deserve to have control and influence. I would reiterate the words of the Council of Maine's Churches. The economy exists for the betterment of the individual. The individual does not exist to be taken advantage of as a result of the economy. Thank you very much.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. As chair of Business and Economic Development I cannot support the pending motion. This is an antibusiness signal and, therefore, I cannot support it. The best business in my area are unionized and the best paying jobs that we have in the state are unionized jobs. I do not want to send the people that provide these jobs the signal that they cannot protect their own businesses. I want to send a signal that we want these jobs and we want more of these jobs to come into the state and we are friendly and we are not antisupportive of their being here. I urge you to vote against the Majority "Ought to Pass" Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Carmel, Representative Treadwell.

Representative TREADWELL: Madam Speaker, Ladies and Gentlemen of the House. I would like to respond to a couple of points that were made earlier about the level playing field. The title of this bill, I think, very well describes what it amounts to. "An Act to Prohibit an Employer from Hiring Replacement Workers During a Strike." What we would be doing with this bill is giving organized labor a huge club in the negotiating process. As a matter of fact, we would be invalidating the negotiating process pretty much. If the organized labor members knew that the employer could not hire replacement workers, there would be no incentive to bargain. They know full well that if they walk out on a strike, the employer will be unable to continue operations. They will have to close the doors and, probably, if the strike lasts for a long period of time will no longer be in business. If I were a stockholder in a corporation in this state with this bill on the books, I would think a long time before I would consider expanding or creating more jobs with my business. I urge you to push the red button on this bill. It is not good legislation. It is not good for economic development and it is not good for the State of Maine.

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

Representative GAGNON: Madam Speaker, Men and Women of the House. I rise in support of LD 66, but not for reasons that others have expressed. I am not a member of a union and I have never been a member of a union. I don't come from a union family. I am a member of management and I always have been. I spent most of my days on P & Ls and TQM and not AFL-CIO. With my business background and some economics under my belt, I support LD 66 because it is good economic policy for this state and for this state in particular. Madam Speaker, we have all reviewed recent statistics showing the tax burden on the average Maine citizen as to percentage of income. Maine is in the top 10 or with the most recent budget probably the top 12. Why is this? It is because we are big

spenders here in Maine. Statistics show us that we are not. We are about in the middle of the list as far as revenue in comparison to population. We are about 24th to 25th. It is because we are underemployed. All indications tell us that we are not underemployed and that we are either at full or close to full employment. Taxes are high enough, but the reality is that our people are poor. It doesn't take long for taxes to chew into people's incomes when incomes are low.

While our Executive talks eloquently and persuasively of Maine tax burden and how that is affected by government spending and tax rates, most of which I agree with, there is another side to that equation and that is the salaries. Consequently, it is in Maine's best interest to improve the average income of Maine's working people. Keep in mind that even with our best efforts to keep spending and taxes in check, we would jump back up to the high tax burden as percent of income, if incomes don't grow, at or above the national rate. This legislation helps ensure better jobs, not just for union workers, but all of those who gain from their job security. With key spending in check, let's not forget the other side of the equation. Let's do what we can to protect good paying and secure Maine jobs. Thank you Madam Speaker.

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

Representative HATCH: Madam Speaker, Men and Women of the House. I just stand to support LD 66. I have a few comments to make in regards to whether or not this will be in compliance with the federal law and the supreme court. First of all, the Supreme Court ruling was in 1938. Even by my standards, that is quite a while ago. I think the intention of the Congress when they passed laws saying that strike was a tool that people could use that they intended for intensive purposes that it was a tool. What we have now with the Supreme Court ruling in 1938 is a broken hammer. The head is off the hammer and there is no way to address this. We have a law on the books that has no affect. We know an awful lot about what we can do and what we can't do in this body. Every day I sit here and I am amazed by the committee reports 12 to 1 or 11 to 2 that go down the tubes. I want you to know that there were nine members on that committee, not all Democrats, who stood up and said this is something that we need to do.

As far as the Attorney General's opinion, I met with our Attorney General on several occasions in regards to this. He looked through the law books and he gave us his best read. You have to remember as a personal friend of mine, he said it more than once. It is only an opinion. It is like your opinion or my opinion. It is only an opinion. I just went to negotiations in my home town involving over 800 workers. They could have lost their jobs if they went on strike. It was over a year and a half. I want you to know they had no tools to use. They couldn't even say they were going on strike because their jobs would have been taken in an instant. They settled. They got a contract, but not an agreement. I can tell you. What will you be doing if you vote for this measure today? You will be sending a clear message to the labor community. You will also be sending a message to business. Is it as bad message? I don't hardly think so. I think it is the voice of the people of the State of Maine who are crying out and asking you to take and pass this legislation.

During the course of the last week I have seen some legislation come through here, that under the Constitution, probably would have been banned anyway. I don't think this will. I truly believe that this strikebreaker legislation needs to be put on the books. It is not saying that they can't hire replacements. Believe me, in my mill, if you hire replacements, you better get somebody who can perform the job because you are not going to make any paper in that brand new mill. It will at least make them

sit down at the table and negotiate fairly. Put all their cards on the table. It is not saying that everybody in the state is going to walk out on a strike. They probably won't. It would give them the opportunity those that had organized to do so.

I would like at this time to request that the clerk read the committee report. I thank you very much for your time.

Representative HATCH of Skowhegan requested that the Clerk read the Committee Report.

The Committee Report was read by the Clerk in its entirety.

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

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

The SPEAKER: The Representative may pose his question.

Representative DONNELLY: Thank you Madam Speaker. To anyone who may answer, there was a report read about a California case that the city after passing similar legislation and making workers believe they were covered by the law, when it was overturned by the court, the court then held against the city that because they made people believe that they had that right, then the city was liable for the court costs, the legal fees, of about \$10 million. My question is, has anyone checked to see how this would affect the State of Maine and if we are leaving a liability out there for the taxpayers?

The SPEAKER: The Representative from Presque Isle, Representative Donnelly has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Madam Speaker, Men and Women of the House. Like I said earlier, labor law has been evolving and labor law has now brought in court costs. The case of *Golden State Transfer vs. Los Angeles*, they brought in the right because the city has interfered and had their fees to court paid by the city in a 1983 action against the governmental entity. Golden State won in that case. I would presume that in a second case of the *Boston Chamber of Commerce vs. the City of Boston* the same thing happened and fees for legal fees were charged back to the City of Boston. I would presume that if we get into this action and take the action that we are faced with today on this LD and somebody takes legal action in the future, we will be responsible for the legal fees on that particular case. Because the legal cases go to such great lengths up to the United States Supreme Court, we are usually looking at a fee of \$1 million or \$2 million or more. That is where we stand.

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

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

The SPEAKER: The Representative may pose his question.

Representative DONNELLY: Madam Speaker, Ladies and Gentlemen of the House. Another question, would this cover cities and towns?

The SPEAKER: The Representative from Presque Isle, Representative Donnelly has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Madam Speaker, Men and Women of the House. I believe this would if they are unionized.

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

Representative DONNELLY: Madam Speaker, I would request a ruling of the Chair if there should be some mandate preamble on the bill.

The SPEAKER: The Chair would advise that it is not within my prerogative to rule on the mandate issue as we have

discussed earlier. There is no fiscal note on the bill so it is the ruling of the fiscal office that it does not require one.

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. With that large question being left open, even though this would feel very good to vote for this and say that we are protecting everybody and giving them a new right, with the unanswered questions of are we now putting all the taxpayers of the state to be liable for legal fees in the case that the court overrules and that is being based on an Attorney General's opinion that it is unconstitutional, not being afraid of legislation, but looking forward to what are we committing people to and have we had the difficult questions asked and answered? I asked a couple of very simple questions and there wasn't much response. When we have those kinds of liabilities for the taxpayers of the State of Maine and the potential for those in the cities and local areas, I think we need to ask the serious questions deeply and get those answers and move forward after we know the answers, not hope that the court doesn't strike it down or hope that we don't leave any liability out there. With that, I will be opposing the pending motion. I hope you will join me.

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. I think that it is interesting to note that in the case that Representative Pendleton has cited, *Golden State vs. the City of Los Angeles*, that the state used as a precedent a Maine case involving Maine vs. Thibodeau, in which they judged that the Golden State could then sue the city for damages. If the Maine case is a precedent, I would say that it has already been set. I urge you to defeat the pending motion.

The SPEAKER: The Chair recognizes the Representative from Livermore Falls, Representative Berry.

Representative BERRY: Madam Speaker, Men and Women of the House. Several days ago in preparation for this debate today, I distributed a piece of paper with a number of letters, from strikers that went on strike with me at International Paper in 1987. The point of my sending this document around was to illustrate that many of the people that are involved in a labor dispute aren't the union bosses or the management that is going to be involved in the negotiations directly. If you show that there are other people affected by this and they respect their fellow workers and they choose to honor the strike, they are left with very little the way the law is used now and the way the law was used by International Paper. There was no good faith bargaining there in 1987. They forced a lockout of workers in Mobile, Alabama. They didn't hire permanent replacements there at that time, they used management from other mills. They used temporary replacements, which was always common practice. You hire temporary workers and then you are bargaining for your job. You are bargaining for benefits, wages and work conditions.

I really take offense by former speakers that this sends an antibusiness message. I am here to represent my constituents. The majority of my constituents are employees. They might be union. They might be nonunion. We have to look out for those workers too. I can stand here and I can vote on bills that are probusiness. If I am proworker, I want a good strong business base in Maine. I want to be probusiness. Don't tell me that if I vote for this, I am sending an antibusiness message to the State of Maine. I am sending a message that I am going to stand up for my fellow workers in this state and that they have an equal place in this state.

I guess I could go on and on. I worked for Local 14, after the beginning of the strike I served as treasurer for four years. At the

beginning on the strike we took on a multinational corporation. We had a CEO that was making record profits and had all the golden parachutes in place, the stock options. We had \$15,000 in our treasury and we were going to take them on. They didn't give us any choice. They really didn't give us any choice. I have swallowed enough pride in my life to make anyone sick at this point. I am sorry if I get emotional on this. I guess I will always have hard feelings about the way we were treated in Jay, Maine, in 1987. I don't want to compare all employers to them, but I don't want to leave this open for more employers that are going to run their company from Memphis, Tennessee or New York City and walk on the people of Maine. Thank you for your time.

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

Representative JABAR: Madam Speaker, Ladies and Gentlemen of the House. I would like to rise in support of this particular bill. I just want to address a couple of issues that were raised and one of them has to do with the bill itself. What we are talking about here is permanent replacement and not necessarily prohibiting companies from hiring replacement workers. Today, we see many corporations that are from international locations, including South Africa, hiring our workers here. The old rules don't apply anymore. Back in the 40s when legislation was passed, a lot of people thought it was radical then to give people the right to organize or give people the right to picket. We know now that these things are allowed and we take it for granted. I don't think we should be afraid of this bill in thinking that it is that radical. I think we need to protect our workers. We need to even the playing field because some of these companies don't care about Maine workers. They have corporate headquarters in other parts of the country that could care less. I am in favor of new business coming into Maine, but I think we cannot do it at the cost of selling out on our workers.

We also cannot dictate what laws we are going to pass based on what happens in California. You don't see too many people here suing McDonalds in Maine and getting \$3 million for having coffee spilled on them. There are a lot of other crazy things that happen in California that are not going to happen in this State of Maine. This bill is not going to give rise to crazy legislation or attorney's fees because of the right of the companies to have to recall their workers back once the strike is settled. That is what this is all about. There are all kinds of companies now dealing with temporary workers. That is really what we are talking about. Let them hire temporary workers while the strike is on, but when the strike is over give these people the right to have the recall. Thank you.

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

Representative SAMSON: Madam Speaker, Men and Women of the House. I apologize for getting up twice, but in a broad answer to the questions that have been asked this morning in regards to this legislation, I am reminded of then Speaker, Dan Gwadosky, as a freshman, instructing us to legislate laws that are beneficial to the people we represent and not to worry about what the other body will do or what the Executive will do or what the Attorney General's opinion will be or what the court's decisions are going to be. We are here to pass legislation that is beneficial to our constituents. LD 66 is beneficial to the working men and women of this state. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Majority "Ought to Pass" Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 97

YEA - Ahearn, Bagley, Baker CL, Baker JL, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Cameron,

Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Green, Hatch, Jabar, Jones KW, Jones SL, Kasprzak, Kerr, Kontos, Lane, LaVerdiere, Lemaire, Lemke, Lemont, Mailhot, Mayo, McAlevey, McKee, Meres, Mitchell JE, Morgan, O'Neal, O'Neil, Paul, Perkins, 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, Usher, Vedral, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bodwell, Bragdon, Bruno, Buck, Bumps, Campbell, Carleton, Cianchette, Clukey, Cross, Dexter, Donnelly, Foster, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kneeland, Labrecque, Layton, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McElroy, Murphy, Nass, Nickerson, Peavey, Pendleton, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Taylor, Tobin, Treadwell, True, Underwood, Vigue, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Dutremble, Fisk, Goodwin, Kane, Muse, O'Brien, Ott, Stedman.

Yes, 89; No, 54; Absent, 8; Excused, 0.

89 having voted in the affirmative and 54 voted in the negative, with 8 being absent, the Majority "**Ought to Pass**" Report was accepted.

The Bill was read once and assigned for second reading Wednesday, April 16, 1997.

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

BILL HELD

An Act to Increase the Certification Fee Cap for the Board of Geologists and Soil Scientists (H.P. 363) (L.D. 508) (C. "A" H-130)

- In House, Failed of Enactment.

HELD at the Request of Representative KERR of Old Orchard Beach.

Representative KERR of Old Orchard Beach moved that the House reconsider its action whereby the Bill failed of enactment.

On further motion of the same Representative, tabled pending reconsideration and specially assigned for Wednesday, April 16, 1997.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

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

Utilities and Energy

Bill "An Act to Restructure the State's Electric Industry" (H.P. 1274) (L.D. 1804) (Presented by Representative JONES of Bar Harbor) (Cosponsored by Senator CAREY of Kennebec and Representatives: COLWELL of Gardiner, DONNELLY of Presque Isle, LaVERDIERE of Wilton, O'NEAL of Limestone, TAYLOR of Cumberland, VEDRAL of Buxton, Senators: AMERO of Cumberland, CLEVELAND of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

COMMUNICATIONS

The following Communication: (H.C. 176)

STATE OF MAINE

OFFICE OF THE GOVERNOR

1 STATE HOUSE STATION

AUGUSTA, MAINE 04333-0001

April 14, 1997

To the Honorable Members of the 118th Legislature:

Enclosed please find H.P. 405, L.D. 550, "An Act to Ensure Fairness to Merchants Under an Implied Warranty of Merchantability," which I am returning without my signature or approval. I cannot approve the bill in its current form, as it could have the unintended consequence of curtailing the right of retailers to seek and obtain reimbursement from the manufacturer of consumer goods in cases involving an implied warranty of merchantability.

After consulting with the sponsor of the bill, as well as persons most knowledgeable about Maine's Uniform Commercial Code, I have determined that the bill is not well crafted to achieve the actual intent of the bill to address the problem of manufacturer disclaimer of liabilities. Instead, the bill creates ambiguity in current Code provisions that extend the manufacturer's implied warranty to the entire universe of persons who may purchase or use the goods. The "fault" language in the last clause might actually limit the obligation of manufacturers to reimburse retailers in certain defective goods cases.

To the extent that the sponsors of the legislation wish to curtail the ability of manufacturers to disclaim certain warranties when they deal with retailers, there are alternative provisions of the Maine Uniform Commercial Code that should be amended. I look forward to working with the sponsors and the members of the Committee on Business and Economic Development in consultation with those persons knowledgeable about the Code to address the concerns that gave rise to the bill. My Office would be pleased to assist the Committee in any way possible.

Because of the objections outlined above, I am in firm opposition to L.D. 550 and I respectfully urge you to sustain my veto.

Sincerely,
S/Angus S. King, Jr.
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act to Ensure Fairness to Merchants under an Implied Warranty of Merchantability" (H.P. 405) (L.D. 550)

On motion of Representative KONTOS of Windham, tabled pending reconsideration and specially assigned for Wednesday, April 16, 1997.

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

On motion of Representative FOSTER of Gray, the House adjourned at 12:30 p.m., until 9:00 a.m., Wednesday, April 16, 1997 in honor and lasting tribute to the memory of Representative Burchard A. Dunn.